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CONTENTS

The Future of the Washington Conference Treaties ..... Arthur N. Holcombe 439

Theories of Majority Rule ..... John G. Heinberg 452

Judicial Organization and Procedure ..... Walter F. Dodd (ed.) ....
The Self-Governing Bar ..... G. W. Adams 470
The Federal Judicial Conference ..... Norman J. Padelford 482

Foreign Governments and Politics .....
The German Presidential Election of 1932.. Harwood L. Childs 486

International Affairs .....
Relations of the United States with the Council of the League of Nations ..... Clarence A. Berdahl 497

Political Methodology .....
A Scale for the Measurement of Attitude Toward Candidates for Elective Governmental Office ..... Herman C. Beyle 527

News and Notes, Personal and Miscellaneous Managing Editor 545
The Democratic Joint Policy Committee... W. H. Humbert 552
Exchange of Official Publications Between Germany and the United States ..... Everett S. Brown 554

Book Reviews and Notices ..... A. C. Hanford (ed.) 558

Recent Publications of Political Interest .....
Books and Periodicals ..... C. M. Kneier and C. S. Hyneman 599
Government Publications ..... Miles O. Price 622

(For list of Book Reviews, see next page)

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REVIEWS OF BOOKS

Wright, American Interpretations of Natural Law. Francis W. Coker 558
Carpenter and Stafford, Readings in Early Legal Institutions; *Keeton*, Elementary Principles of Jurisprudence; *Kocourek*, An Introduction to the Science of Law. John A. Fairlie..... 560
Elliott, The New British Empire. F. R. Scott..... 561
Hughes, National Sovereignty and Judicial Autonomy in the British Commonwealth of Nations. William Y. Elliott 563
Gooch, Regionalism in France. Walter R. Sharp 564
Willoughby, Financial Conditions and Operation of the National Government, 1921-1930. G. C. S. Benson 565
Witte, The Government in Labor Disputes. Edward Berman 566
Thomas (ed.), The International Labor Organization: The First Decade. Phillips Bradley 567
Case, Franco-Italian Relations, 1860-1885; *Schuman*, War and Diplomacy in the French Republic. Graham H. Stuart 568
Southworth, The French Colonial Venture. Graham H. Stuart 570
Playne, Society at War. Rupert Emerson 571
Crowded Years: The Reminiscences of William G. McAdoo. Harold F. Gosnell 572
Nichols, Franklin Pierce. James P. Richardson 573
Briefer Notices. A. C. Hanford and others 574
Hankin, Progress of the Law in the United States Supreme Court, 1930-1931; *Van Deusen*, Porto Rico; *Evans*, A Study in the State Government of Louisiana; *Bradshaw*, The Missouri County Court; *Gewehr*, The Rise of Nationalism in the Balkans, 1800-1930; *Woody*, New Minds, New Men?; *Karpovich*, Imperial Russia, 1801-1917; *Zelitch*, Soviet Administration of Criminal Law; *Rippy*, The Capitalists and Columbia; *Cooke and Stickney*, Readings in European International Relations Since 1879; *Hallberg*, The Suez Canal; *Gordon*, American Relations with Turkey, 1830-1930; *Beard*, The Navy: Defense or Portent; *Angell*, The Unseen Assassins; *Einzig*, Behind the Scenes of International Finance; etc.

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The American
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THE FUTURE OF THE WASHINGTON CONFERENCE TREATIES*

ARTHUR N. HOLCOMBE
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At the outset, it is pertinent to recall the high hopes with which, ten years ago, the Washington Conference Treaties were proclaimed to the world. We can still remember the measured words with which President Harding brought the Conference to a close. "This Conference," he declared, "has wrought a truly great achievement. It is hazardous sometimes to speak in superlatives, and I will be restrained. But I will say with every confidence that the faith plighted here today, kept in national honor, will mark the beginning of a new and better epoch in human progress."

The grounds for these high hopes were set forth in the official summary transmitted to the Senate along with the record of the proceedings of the Conference and the texts of the treaties themselves:

> To estimate correctly the character and value of these several treaties [it is written in this document] they should be considered as a whole. Each one contributes its part in combination with the others towards the establishment of conditions in which peaceful security will take the place of competitive preparation for war. . . . Competitive armament, however, is the result of a state of mind in which a national expectation of attack by some other country causes preparation to meet the attack. To stop competition, it is necessary to deal with the state of mind from which it results. A belief in the pacific intentions of other Powers must be substituted for suspicion and apprehension. The negotiations which led to the Four-Power Treaty were the process of attaining that new state of mind, and the Four-Power Treaty itself was the expression of that new state of

* An address delivered at an institute on Far Eastern affairs held at the American University, March 22, 1932.

mind. It terminated the Anglo-Japanese alliance and substituted friendly conference in place of war as the first reaction from any controversies which might arise in the region of the Pacific; it would not have been possible except as part of a plan including a limitation and a reduction of naval armaments, but that limitation and reduction would not have been possible without the new relations established by the Four-Power Treaty or something equivalent to it.

This was well said, but it was not all. The official summary continued as follows:

The new relations declared in the Four-Power Treaty could not, however, inspire confidence or be reasonably assured of continuance without a specific understanding as to the relations of the Powers to China. Such an understanding had two aspects. One related to securing fairer treatment of China, and the other related to the competition for trade and industrial advantages in China between the outside Powers. An agreement covering both of these grounds in a rather fundamental way was embodied in the first article of the general Nine-Power Treaty regarding China. In order, however, to bring the rules set out in that article out of the realm of mere abstract propositions and make them practical rules of conduct, it was necessary to provide for applying them so far as the present conditions of government and social order in China permit. This was done by the remaining provisions of the general Nine-Power Treaty and Chinese Customs Treaty and the series of formal resolutions adopted by the Conference in its plenary sessions and the formal declarations made a part of the record of the Conference.

There, in brief, is the story of the Washington Conference Treaties, and the explanation of the high hopes which they aroused ten years ago for the pacific solution of Far Eastern problems. How disappointing, by contrast with these hopes, is the spectacle which the Far East now presents to our view! The Washington Conference Powers, other than China, agreed with one another to respect the territorial and administrative integrity of China, but now we see all that part of China commonly known as Manchuria occupied by the armed forces of one of these Powers, and the Chinese administrative authorities driven away and replaced by others who claim to have established an independent state on what had been recognized as Chinese soil. The Washington Conference Powers, other than China, agreed with one another to provide the fullest and most unembarrassed opportunity to China to develop and maintain for herself an effective and stable government, but now we see the largest and most important city of the Chinese Republic, lately the scene of pitched battles between an expeditionary force sent out by one of those Powers and the

troops of the Republic, paralyzed and rendered helpless as an organ of government for China. It is clear, as Secretary Stimson declared in his open letter of February 24 to Senator Borah, "that a situation has developed which cannot . . . be reconciled with the obligations of the . . . treaties, and that if the treaties had been faithfully observed, such a situation could not have arisen."

The Japanese government seeks to justify its military operations in China by the assertion, first, that they were undertaken in self-defense, and secondly, that Japanese subjects and property were in peril because the Chinese had failed to develop an effective and stable government. This view is set forth clearly in Foreign Minister Yoshizawa's reply to the appeal for peace sent out on February 16 from Geneva by the twelve non-Oriental members of the League Council:

> It must be emphasized [the Japanese statement said] that the Japanese government does not and cannot consider that China is an "organized people." . . . China has, it is true, been treated in the past by common consent as if the expression connoted an organized people. But fictions cannot last forever, nor can they be tolerated when they become grave sources of practical danger. The time has inevitably come when realities, rather than fictions, must be reckoned with. . . . It is impossible any longer to treat the chaos in China as if it were order. . . . We must face the fact, and the fundamental fact is, that there is no unified control in China and no authority which is entitled to claim entire control in China.

In accordance with this view, the Japanese government not only permits the establishment of an independent state in Manchuria, but also proposes the neutralization of the five leading ports of China outside of Manchuria.

Such language and such actions reveal a sharp break with the policy toward China which the Japanese government has professed to follow since the Washington Conference. This policy—the friendship policy, as it has been called—had been repeatedly proclaimed by leading Japanese statesmen. Baron Shidehara, for example, who was one of the principal Japanese delegates at the Washington Conference and was foreign minister when the recent military operations began, declared in a speech in the Diet on January 21, 1930:

> In China, endless scenes of internal commotion and strife have in the past from year to year presented themselves. They have not only caused

untold misery and hardships to the Chinese people themselves, but have also exercised a most harmful influence upon our political and economic relations with China. Nothing was more gratifying to us than to witness the measure of success which the Nationalist government through tremendous efforts was able to attain in 1928 in the great enterprise of effecting a national unification. Having regard, however, to the historical and geographical background of China, and other conditions surrounding her, we are not blind to the many difficulties with which any attempt at the establishment of peace and unity in all parts of that vast country will necessarily have to grapple. . . . If, however, one takes a broader view of the future well-being of both China and Japan, one will be satisfied that there is no other course open to the two nations than to pursue the path of mutual accord and coöperation in all their relations, political and economic. Their real and lasting interests, which in no way conflict but have much in common with each other, ought to be a sufficient assurance of their growing *rapprochement.*

Baron Shidehara was foreign minister when he made this speech, and nothing could be clearer than the harmony between his views, as expressed then, and the spirit of the Washington Conference Treaties.

The conflict between the present policy of the Japanese government and the spirit of the Washington Conference Treaties marks the triumph of different views, which have long been avowed by Japanese statesmen. The late Baron Tanaka, who was Baron Shidehara's predecessor as foreign minister and at the same time prime minister of Japan, was outspoken in his advocacy of a more positive policy toward China. Speaking in the Diet on January 21, 1928, he said:

I shall now refer to China, and explain my views on the conditions in that country in which Japan has vital interests. It is indeed pitiful that troubles continue there without the slightest prospect of ceasing some day. . . . In case the chaos should come to a point where it would put in peril the lives and the property of foreign residents, and shake the very foundation of the economic interests which our people have established there at the cost of great efforts for many years, we could not indeed tolerate such a situation. . . . We shall not hesitate at any moment to take measures which may be required, both to assure our rights and interests, and to safeguard the lives and the property of our nationals in China. . . . As regards Manchuria and Mongolia, particularly the three eastern provinces, we are inclined to think that, in view of the special character of Japan's historical and geographical relations with those regions, it may be necessary for us to take those provinces under a very special consideration. . . .

The precise meaning of these observations is not altogether clear, but it may fairly be inferred that Baron Tanaka was not so

disposed to be patient with China as was Baron Shidehara. Apparently he had little or no hope that China would ever be able to maintain an effective and stable government. Be that as it may, impatience with the Chinese revolution has infected the Japanese government to such a degree that it has repudiated the friendship policy toward China, based upon the Washington Conference Treaties, and now seeks to substitute a new policy based upon the denial of the right of China to claim the privileges and immunities of a free and equal member of the family of nations.

The repudiation of the friendship policy by the Japanese government raises an awkward question. What is to be done when one of a group of Powers, which have defined a common policy by a solemn treaty, changes its mind and proceeds to act upon a new view of the case without regard to the opinions of the other Powers with which it has been associated?

The answer to this question must be sought in the first instance in the Washington Conference Treaties themselves. The Nine-Power Treaty, that one of them which is directly applicable to the present crisis, provides in Article VII that "whenever a situation arises which in the opinion of any one of them involves the application of the stipulations of the present treaty, and renders desirable discussion of such application, there shall be full and frank communication between the contracting Powers concerned." It seems that under this provision the Japanese government should have communicated with the other Washington Conference Powers before destroying the administrative integrity of China by its military operations in Manchuria, and that the American government should have communicated with the others before communicating with independent agencies such as the Council of the League of Nations. Apparently both Japan and the United States preferred not to proceed in the manner provided by the Nine-Power Treaty, and it must therefore be supposed that this procedure was not a convenient one for the purpose. When on February 16 the non-Oriental members of the League Council, in their appeal to the Japanese government to restore peace in the Far East, cited the Nine-Power Treaty as one of which the Japanese government should take heed, the latter replied (in the statement of February 23) that "it would be inconvenient and improper to enter upon a discussion of its terms with

Powers other than those who are parties to that engagement and in the absence of some who are parties." Still, no efforts were made, as far as is publicly known, to bring about that full and frank communication between the Washington Conference Powers which is contemplated by the Nine-Power Treaty. In short, the procedural provisions of the treaty have proved unworkable. They must now be regarded as obsolete. In fact, they had already become obsolete several years ago through the breakdown of the former Concert of the Powers in the Far East and the abandonment of the old policy of foreign tutelage in China.

The failure of the method of intercommunication between the Washington Conference Powers to prevent the repudiation of the friendship policy by Japan makes it necessary to consider other means of maintaining a due respect for the obligations of the Nine-Power Treaty. These obligations, it must be recognized, are of a special nature. The substantive provisions of the treaty constitute an international engagement of the type which is described in the Covenant of the League of Nations as a regional understanding. If one of the parties to the understanding changes its mind, it is not clear what other parties can do about it beyond the exchange of friendly communications, provided that the party which has changed its mind does not commit an overt act conflicting with the spirit of the understanding. In his open letter of February 24 to Senator Borah, Secretary Stimson declared most explicitly that "our government . . . has rested its policy upon an abiding faith in the future of the people of China," and concluded with the admonition that "we are prepared to make that our policy for the future." Suppose that Tokyo had done nothing more than transmit to Washington an equally explicit avowal that it had lost faith in the political capacity of the Chinese people, and believed that China should receive further political tutelage and administrative assistance from the Powers. Such a change of opinion on the part of the Japanese government would not be a breach of the treaty, if unaccompanied by positive action, though it would doubtless mar the spirit of the understanding. If, however, an overt act is committed, the remedy will depend upon the nature of the act and the rights of the parties. A treaty or agreement between Japan and China in violation of the second article of the Nine-Power Treaty would give rise to a justiciable

controversy between those Powers and the other Washington Conference Powers. Such a controversy would be suitable for submission to arbitration or to the World Court. A resort to violence against China by Japan would raise controversies, both justiciable and political, the solution of which might be sought either under the Covenant of the League or under the Kellogg Pact, or both. Since Japan has resorted to violence, and the other Washington Conference Powers have sought solutions of the resulting controversies under both the Covenant and the Pact, evidence is rapidly accumulating in the light of which a tentative judgment may be rendered concerning the means of maintaining due respect for the obligations of the Nine-Power Treaty.

Let us consider first the efforts which have been made to secure these obligations by invoking the Kellogg Pact. The American government has made two such efforts which should be noted. The first was embodied in Secretary Stimson's note of January 7 to the Japanese and Chinese governments; the second, in his open letter of February 24 to Senator Borah.

The note of January 7 was not dispatched until Washington had already done all that it could hope to do by means of ordinary admonitions. Last September, when the Japanese military operations in Manchuria began, Secretary Stimson reminded the Tokyo government of its obligation under the Nine-Power Treaty to respect the territorial and administrative integrity of China, as well as of its obligation under the Kellogg Pact to seek a settlement of its controversy with China by none but pacific means. By the end of December, the American government had become convinced that the Japanese government had failed to respect these obligations. Thereupon, Secretary Stimson, in the note of January 7, served notice that the American government would not recognize any situation that might be brought about in the Far East in violation of the covenants of the Nine-Power Treaty, if it should adversely affect American rights; nor would it recognize any situation brought about in violation of the Kellogg Pact. This note went beyond ordinary admonition and warning, and constituted a plain threat that Washington would make trouble for Japan if the Tokyo government persisted in ignoring its commitments under the Nine-Power Treaty and the Kellogg Pact. But the Stimson note of January 7 did not prevent the Japanese

operations at Shanghai. The Washington government believes that it would be a great injustice for Japan to gain permanent advantages over China and the United States by violent aggression against China. It does not intend that lawful rights shall be founded upon lawless force. But Washington cannot threaten Tokyo with the consequences of its displeasure throughout an indefinite future without doing something to make its threat good.

Let us suppose, for the sake of illustration, that the Japanese forces, despite the gallant resistance of the Chinese at Shanghai, should eventually succeed in their attempt to coerce the Nanking government into accepting the results of the Japanese occupation of Manchuria. Suppose that a treaty should be signed by the Japanese and Chinese governments, as was done in 1915, by which the Chinese should acquiesce in an odious settlement of the present controversy. In that case, the Chinese, under the existing rules of international law, would be bound by the treaty. But the American government has announced that it would not recognize such a settlement if it should impair American rights in the Far East. As far as Washington was concerned, the settlement would be no settlement at all, and the supposed treaty, instead of putting an end to the conflict, would on the contrary perpetuate the controversy between Japan and the United States. Washington has reserved the right to continue to protest against such a settlement until it shall be unsettled again. The refusal to recognize the settlement would hang like a pall over all the future relations between the Powers in the Far East. It would breed endless suspicion between the United States and Japan, and embitter all the contacts between the two countries. The majority of the Japanese people are as devoted to peace as other peoples, and a policy of keeping American grievances indefinitely alive would be an intolerable barrier to friendly relations between America and Japan.

It is impossible to regard a policy of intimidation such as is embodied in the Stimson note of January 7 as anything more than a temporary measure. This conclusion is confirmed by the results of the similar policy pursued by the American government in dealing with the notorious twenty-one demands of 1915. Washington served notice at that time that it would withhold recognition of the results of Japanese aggression upon China if Amer-

ican rights, or the political or territorial integrity of the republic of China, should be impaired. Thereupon the Japanese demands were substantially modified, though not sufficiently to meet the objections of the American government. Subsequently, at the Washington Conference, in response partly, it may be presumed, to further pressure by the American government, the Japanese government made further concessions to China. But Tokyo was still unwilling to cancel the extension of its railway concessions and of its leasehold in Kwantung, and thereafter the American government seemed to acquiesce in the resulting situation. If happily the Tokyo government should presently desist from the endeavor to coerce the Nanking government into submission to its will with respect to Manchuria, whether because of Washington's remonstrances, or the disapproval of enlightened people in all parts of the world, or the heroic resistance of the Chinese themselves, then the Stimson note of January 7 may do no great harm to the future relations between America and Japan. But if Tokyo should continue to demand the acceptance of the situation which has been brought about in Manchuria, it will be necessary for the American government either to adopt a more vigorous policy than that of passive intimidation or to acquiesce in the repudiation of the friendship policy.

In the open letter of February 24 to Senator Borah, Secretary Stimson pursued further what I have called the policy of passive intimidation. This letter, although addressed to Senator Borah, was of course intended for Tokyo as well as Capitol Hill. It contains a careful explanation of the origin and purpose of the Washington Conference Treaties. It points out that the Nine-Power Treaty subsequently received the adherence of five other Powers. It then continues as follows:

> It must be remembered also that this treaty was one of several treaties and agreements entered into at the Washington Conference by the various Powers concerned, all of which were interrelated and interdependent. No one of these treaties can be disregarded without disturbing the general understanding and equilibrium which were intended to be accomplished and effected by the group of agreements arrived at in their entirety.

This was a plain intimation that the American government would not feel bound to continue the policy, inaugurated in the Five-Power Treaty, of reducing naval armaments and restricting fortifications in the Pacific islands, if the Japanese government

should persist in disregarding its commitments under the Nine-Power Treaty. Such an intimation is well calculated to convince Tokyo of Washington's seriousness in protesting against the coercion of China, but, like the note of January 7, it cannot be regarded as anything more than a temporary measure. By the terms of the Five-Power Treaty, the agreed limitation of naval armaments must continue at least until the close of the year 1936; and an immediate denunciation of the treaty could only unsettle the relations between America and Japan without releasing the American government from its obligations. If unhappily the threat implied in the open letter to Senator Borah should prove no more effective than that implied in the note of January 7, it is difficult to escape the conclusion that the American government will eventually be faced by the same dilemma. It will be compelled either to adopt a more vigorous policy than that of passive intimidation, or to surrender to Japanese violence. The dilemma cannot be escaped if the Japanese government does not presently reverse its policy, except by the indefinite prolongation of the present tension between the United States and Japan—an intolerable, even if it be a practicable, procedure.

I suppose that there is another possible interpretation of the action taken by Secretary Stimson to compel the Japanese government to respect its commitments under the Washington Conference Treaties and Kellogg Pact. It may be held that the notice served on those concerned that the American government will not recognize a situation brought about in contravention of the covenants of these treaties does not commit the American government to an indefinite refusal to recognize the situation which has been brought about in Manchuria, but merely to a refusal to recognize it until its validity shall have been determined by proper authority. This interpretation of what I have called the policy of passive intimidation would commit the American government to an effort to procure the submission of the controversy to judicial settlement, by either the Permanent Court of International Justice or some other suitable body. Such questions as, what is "war," and what are "pacific" means of solving international controversies, and where shall the line be drawn between the right of a whole body of people to political or administrative integrity and the right of a part of the same body of people to self-determina-

tion, may be regarded as legal questions, to be answered, not by the unilateral declaration of any foreign office, but only by due process of law. In that case, the Stimson note and letter may be interpreted as preliminary motions in an effort to transfer the scene of the controversy from Washington and Tokyo to The Hague.

Such reflections lead to a consideration of the means for preventing the coercion of China, in defiance of the spirit of the Washington Conference Treaties, which are available to the Washington Conference Powers under the Covenant of the League of Nations.

All of the Washington Conference Powers except the United States are parties to the League Covenant. These Powers know precisely what they can do in order to prevent the coercion of China by Japan. They can muster the moral resources of the League by invoking Articles XI to XV of the Covenant, or they can muster the League's material resources by invoking Articles X and XVI. In fact, the statesmen at Geneva have preferred to exhaust the possibilities under Articles XI to XV before invoking Article X or Article XVI. In view of all the circumstances, we must applaud their prudence. During the first phase of the controversy, turning upon the occupation of Manchuria, they proceeded under Article XI, and since the occupation of Shanghai they have proceeded under Article XV. It is too soon to know whether the mild remedies provided by these articles will prove adequate. But there is no reason why the more drastic remedies provided by Articles X and XVI should be applied as long as there is hope of a settlement under Articles XI and XV. If the mild remedies now in process of application should fail, the Washington Conference Powers belonging to the League know what they can do next. They can immediately refer the legal questions to the World Court, and eventually, armed with the opinion of the Court, they can stand upon their rights under the Covenant. They will know what they can expect of one another. But can they know what to expect of the American government?

That is a question, the answer to which finally demonstrates the superiority of the procedure under the Covenant over that under the Nine-Power Treaty and the Kellogg Pact. The Kellogg Pact has one theoretical advantage over the Covenant. It pre-

scribes the use of none but pacific means for solving international disputes. Under the Covenant, the resort to war under certain circumstances is not prohibited. But the Kellogg Pact fails to define the meaning of its terms, and also fails to provide machinery for supplying the necessary definitions, when needed, as in the present Sino-Japanese controversy. It is clear from the proceedings under the Pact in this controversy that it may create more disputes than it solves. The Covenant provides more dependable machinery for disposing of such legal questions as have arisen in the present controversy than does the Pact. It also provides better facilities for mobilizing the opinion of mankind than are available under the Pact. The ultimate purpose of proceedings under the Pact and under Articles XI and XV of the Covenant coincide, as President Hoover properly pointed out in his special message of December 10 last to Congress. It seemed to him, therefore, as he said in that message, "both wise and appropriate rather to aid and advise with the League and thus have unity of world effort to maintain peace than to take independent action." This was indeed wise and appropriate, and it is to be hoped that the Hoover precedent will be followed in all similar cases that may arise in the future. The Stimson note of January 7 and the open letter of February 24 marked a departure from this policy, which happily has proved to be only temporary. The Assembly of the League, in its resolutions of March 11, has made the policy of the Stimson note its own, and independent action on the part of the United States has again given way to unity of world effort to maintain peace based upon American coöperation with the League.

The future of the Washington Conference Treaties depends in the last analysis upon the efficacy of the processes which are available for the maintenance of the friendship policy toward China. It is clear that it is the Kellogg Pact and the League Covenant upon which both China and the United States must rely for protection of their rights against violent aggression by another Power. The Pact provides the only rule which is broad enough, at least in principle, to supply complete protection. But the Covenant provides the only machinery which is readily available for dealing with such aggression. Kellogg Pact Powers which are not members of the League are dependent upon the League ma-

chinery for the means of effective action. Members of the League are dependent upon the Kellogg Pact for the basis of coöperation with the non-League Powers. It is not surprising, therefore, that the League should proceed as long as practicable under Articles XI and XV of the Covenant, which are suitable for coöperation with Kellogg Pact Powers not belonging to the League, rather than under Articles X and XVI, which are not so suitable for such coöperation. Neither is it surprising that the American government should emphasize its rights under the Kellogg Pact rather than those under the Nine-Power Treaty. Secretary Stimson was well advised, when, following the adjournment of the special session of the League Assembly on March 11, he declared: "The nations of the League at Geneva have united in a common attitude and purpose toward the perilous disturbances in the Far East. The action of the Assembly expresses the purpose for peace which is found both in the Pact of Paris and the Covenant of the League of Nations. In this expression, all the nations of the world can speak with the same voice. . . ." This is the view which must prevail if the Washington Conference Treaties are to survive.

In short, the future of the Washington Conference Treaties depends upon the continuance of American coöperation with the League of Nations, in order that there may be, as President Hoover said, unity of world effort to maintain peace.

The procedure provided by the Nine-Power Treaty itself, that of full and frank communication between the Washington Conference Powers, broke down some time ago, and no one supposes that this method of protecting China against coercion by Japan can be successfully revived. The processes available under the Kellogg Pact seem as likely to strain the relations between the United States and Japan to the danger point as to bring about a reconciliation between Japan and China. The processes available under the Covenant of the League of Nations are much more promising. President Hoover has acted with prudent foresight in coöperating with the League to the fullest extent that is practicable under the existing laws of the United States. It is to be regretted that the laws which Congress has enacted do not permit closer coöperation. With the assurance of such coöperation, the future of the Washington Conference Treaties would not seem so dark as it now does.

THEORIES OF MAJORITY RULE

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I. INTRODUCTION

The term "majority rule" is as impossible to escape as it is apparently difficult to define with precision. Aristotle generally employed it to designate the conduct of government by the poor citizens, who were more numerous than the rich, in the Greek city states.[1] In canon law, it meant the verdict of the *maior* and *sanior pars* of a small group. Frederic Harrison wrote about the "rule" of the "effective majority"—that section of any community or social aggregate, which, for the matter in hand, practically outweighs the remainder. He explains that it may do so "by virtue of its preponderance in numbers, or in influence, or in force of conviction, or in external resources, or in many other ways."[2] Sir George Cornewall Lewis thought that where the ultimate decision is vested in a body there is no alternative other than to count numbers, and to abide by the opinion of a majority.[3] But in alleging that "no historian, in discussing the justice or propriety of any decision of a legislative body, or of a court of justice, thinks of defending the decision of the majority *by saying that it was the decision of the majority,*"[4] he did not anticipate the view of the English historian Hearnshaw. According to the latter, "The faith of a democrat requires him to believe that in the long run the majority of the people finds its way to the truth, and that in the long run it tries to do the right."[5] At present, particularly in the United States, there is a prevalent, although vague, assumption that "majority rule" is the method or device of "democracy." But "democracy" is another of the terms of our political vocabulary that lacks precision.

[1] *Politics* (Jowett trans.), IV, 3, 4.

[2] *Order and Progress* (London, 1875), p. 99.

[3] *The Influence of Authority in Matters of Opinion* (ed. 1849), p. 211.

[4] *Ibid.*, p. 212. Italics are those of the present writer.

[5] *Democracy and the British Empire* (New York, 1920), p. 201. Italics are those of the present writer. In his *Democracy at the Crossways* (London, 1919), pp. 329-330, Hearnshaw says: "The majority vote represents in a final and authoritative form what the individual vote represents in this provisional and tentative form. It reveals the prevailing tendency in the social organism; it manifests the public opinion of the body politic; it displays the general will of the community as a whole."

Approached historically, ideas relating to "majority rule" seem to fall into at least three fairly separate theories, here labeled: (1) the group device theory; (2) the dogma of majority rule; and (3) the device of constitutional government theory.

II. THE GROUP DEVICE THEORY

Long before ideas concerning "majority rule" appear in historical writings, deliberative groups had begun to reach their decisions by means of the majority device. So far as can be determined from the literature that is extant, the Greek city states—probably Athens in the first instance—were the first successfully to employ an advanced form of deliberative group control with majority decisions as an established practice. The early experience of other peoples, e.g., the barbarians of western Europe, by no means gave unquestioned sanction to such a mode or arrangement. A group, let us say, pondered over the question of war; but unless unanimity manifested itself there could be no "group will," and hence no settlement upon a social policy or a line of conduct. On the contrary, there might be, and often was, internal conflict within the group. Groups divided, the component parts either forming new groups and going different ways or resorting to battle with each other for supremacy. "Equality" in deliberative political group action in these early times meant that if one man or a minority opposed themselves to the remainder, no group "will" or decision could come into existence.

Otto von Gierke has given us an account of the difficulties encountered in the introduction of majority decision into Germanic law.[6] According to him, the majority device was unknown in the early stage of Germanic law. Here the "will" of a group coincided with the "wills" of *all* those who assembled. If the reasoning and oratory of the leaders did not lead to unanimity, the opinion of the preponderant majority prevailed. But the minority were not obligated by it. He who stubbornly maintained his objection was not bound by the decision of his comrades. Yet he thereby separated himself from the remainder who agreed among themselves, became their enemy, and exposed himself to being violently

[6] Gierke, "Über die Geschichte des Majoritätsprinzips," in Sir Paul Vinogradoff (ed.), *Essays in Legal History, Delivered Before the International Congress of Historical Studies* (London, 1913), pp. 312-335.

coerced by them. Only actual force could conquer the obstinate, and if the minority was strong enough to hope for victory, a division into parties took place instead of a unanimous assembly decision.[7] As Simmel has pointed out, voting here serves the purpose of avoiding a direct conflict of power by discovering its eventual result through the ballot. The minority may convince itself of the futility of actual resistance; the individual acquiesces only if opponents convince him that he will suffer an equivalent loss by resistance.[8] In the German election of kings, this original conception continued far into the Middle Ages, the Golden Bull being the first attempt to introduce the majority device as a basic one.[9] Until that time, the minority that did not acquiesce had to be forced by arms to acknowledge the elected king. The ancient conception also continued in the German and French feudal assemblies until the thirteenth century.[10]

The general evolutionary tendency in the latter half of the Middle Ages was toward a progressive acceptance of the majority device, but this did not mean a break from the old conceptions; the old idea of final agreement of all was in no way relinquished. The majority device receives the interpretation: "the minority must follow the majority." That is to say, the minority must withdraw its objection and agree with the majority, in order that a unanimous "common will" may be settled upon. The old German postulate of unanimity is raised to an ideal postulate.[11]

Herein is manifested an extraordinary advance in legal ideology—the overcoming of divided opinion should no longer depend upon actual preponderance and force, but should be accomplished by the fulfillment of a legal duty imposed upon the minority. From the nature of social relations there arises the duty of an associate to conform to the result of the ballot for the sake of the unity of the whole, and by his conformity to exalt the will of the majority to a will of the entire group. Final unanimity is still required, the decision becoming valid only if the minority actually conforms to the majority; a legally valid assembly decision cannot be reached in the event that a minority persists in its opposition.[12]

[7] Gierke, *op. cit.*, p. 315.

[8] George Simmel, *Soziologie* (Leipzig, 1908), p. 189.

[9] See E. Ruffini Avondo, "Il Principio maggioritario nelle elezioni dei Re e Imperatori romano-germanici," in *Atti della Reale Accad. delle Scienze di Torino*, Vol. LX (1924-25), pp. 392-574.

[10] Gierke, *op. cit.*, p. 316.

[11] Simmel, *op. cit.*, p. 190.

[12] Gierke, *op. cit.*, p. 319.

A change in this older conception took place when the decision of the majority came to be counted as directly expressive of the "will" of the group. This evolutionary stage was reached when the old concept of *association* was raised to the concept of the *corporation*. Although Germanic law itself developed this transformation, it built upon an idea in Roman and canon law in which a corporation theory was first formulated, embodying as an important element the majority device. The post-commentators introduced the distinction of *omnes ut universi* and *omnes ut singuli*. Only where the law conceived of a group of individuals as a *universitas* was the majority equivalent to all, while wherever a group counted only as a sum of individuals, the opposition of an individual outweighed the unanimity of all the rest..

Centuries before, in the thoroughly developed canon law theory as in the Roman law theory, the majority will was regarded as equivalent to the will of all.[13] In canon law, the reason given was that the many could more easily arrive at the truth than could the few. This idea was rarely imitated in civil law, but a canonistic viewpoint that a strong, at least a double, preponderance of number offers security for the reasonableness of a majority decision gained general acknowledgment.[14]

It would be a mistake to assume that the majority device was either a fundamental one or an essential factor in Roman law, but we do find that it was used in certain institutions.[15] The Roman assemblies employed the majority device in a unique manner.[16] The "will of the state," as conceived by Roman law, was the will of its components legally organized. The difficulty of a divided opinion was overcome by means of a fiction: *Refertur ad universos quod publice fit per majorem partem,* and *Quod major pars curiæ effecit pro eo habetur ac si omnes egerint.* The Roman jurists attempted no justification of this fiction. As Avondo has pointed out, the majority device was here simply a convention, an established method of procedure.[17]

[13] Gierke, *op. cit.*, p. 322. [14] *Ibid.*, p. 324.

[15] E. Ruffini Avondo, *Il principio maggioritario nella storia del Diritto Canonico* (Modena, 1925), pp. 10-11.

[16] *Ibid.*, pp. 11-15. The system referred to was that of concurrent majorities. The assemblies were composed of corporate divisions; each division reached its decision by a majority vote; and a majority of the divisions determined the decision of the assembly as a whole.

[17] *Ibid.*, pp. 18-20.

In canon law, the majority device was conceived as a means of arriving at unanimity by imposing a duty of assent upon the minority. This gave way to a juridical fiction whereby what was decreed by the majority was considered the will of all, and was justified by the canonists, as has been said, upon the ground that the decision of a majority was more likely to approach the true and good than was that of the few.[18] To make certain, there was introduced the doctrine of the *maior et sanior pars* whereby the "majority" was both counted and weighed. Thus it might be possible for a minority composed of *pars sanior* to prevail over a numerical majority. In time, however, the simple numerical count came to prevail, and a preponderance in number was taken as evidence of a preponderance in *sanitas*.

There is no necessity to dwell further upon the history of the majority device as a tool used in the construction of group decisions.[19] It may be remarked, in a word, that group activity in the forms of exercise of powers and performance of functions has tended to adopt the majority device for decision-making, and that the only persistent attempt to break away from a purely numerical count—to weigh as well as to count votes—led to the adoption of the count as the method of weighing.[20]

In summarizing the group device theory, it can be said that as political and other groups came to be recognized as exercising powers and functions in an orderly manner, the majority device came increasingly into use for decision-making. But membership within these groups was not based upon abstract "rights;" nor were their powers or functions other than subject to well-defined limitations. A number of justifications were separately and op-

[18] *Ibid.*, pp. 22-32. For centuries, the Church had only one method of expressing a collective will, and that was unanimity. Every election was preceded by an invocation to the Holy Ghost to come down and guide the electors. Even after the adoption of the majority device, unanimity remained the ideal of elections. "They talk (but blasphemously enough)," says John Selden, "that the Holy Ghost is president of their General Councils; where the truth is, the odd man is still the Holy Ghost." *Table Talk* (London, 1847), p. 55.

[19] This has been given more extensive treatment by the writer in "History of the Majority Principle," in this REVIEW, Feb., 1926, pp. 52-68.

[20] This was done in the Church. See Gierke, *Das Deutsche Genossenschaftsrecht*, Vol. III, pp. 323-330. "No body of law," says Avondo, "as much as canon law contains in fact such a great number of rules which regard eligibility under the psycoethical aspect as well as the juridical aspect." *Op. cit.*, p. 40.

portunely advanced for the use of this device.[21] There was the justification of force—the idea that the greater number represents the greater force. There was the justification of truth—the idea that the greater number will more nearly hit upon the true and good than will the minority. There was the simple justification of a rule of law—the establishment of the majority device as the most satisfactory test for a "common will." As the use of the majority device came to be generally established as a procedural method, arguments for it became unnecessary and justifications superfluous. The rival devices of unanimity and the weighing of votes became inappropriate as group activity, and the necessity of innovating decisions increased.

III. THE DOGMA OF MAJORITY RULE

Unlike the group device theory of majority rule, the dogma of majority rule is not a rationalization based upon definite practices but a concept based upon other concepts. These speculations were current in the political theories that grew out of the concepts of the Middle Ages and came to maturity in the atmosphere of the rising national states. There is mention of something that has been called "majority rule" in the *Defensor Pacis* of Marsiglio of Padova. But Marsiglio's term for majority was *valentior pars*, and modern scholars of at least three nationalities are generally agreed that by that term he meant something more approximating the early mediæval *sanior pars* than a numerical majority.

Passing over the interval of the centuries between the appearance of Marsiglio's *Defensor Pacis* (1324) and the publication of Burke's *Appeal From the New to the Old Whigs* (1791), we find the dogma of majority rule a prominent, although never explicitly and thoroughly developed, part of the current political theory. It was at least sufficiently prominent to call for the extended and vigorous criticisms of Burke.[22]

The history of the dogma of majority rule, therefore, is not so much the history of an idea *sui generis* as it is the portrayal of as-

[21] W. Starosolskyj, *Das Majoritätsprinzip* (Vienna and Leipzig, 1916). "The question of justifying the norm that the majority decides, as well as that of its historic efficacy, followed the fact of its existence, and was only proposed after the norm had already been acknowledged and applied." P. 35.

[22] *The Works of Edmund Burke* (Boston, 1904), Vol. IV, pp. 170 *et seq.*

sumptions made by theorists by reason of their holding other concepts. The process whereby the dogma came to be accorded place and prestige in political theory has been portrayed, although somewhat harshly, by Thomas Baty in the following manner: "... like other superstitions, it was cradled in uncritical carelessness, and brought to its modern pitch of luxuriant rankness through indolence. Never deliberately or of set purpose adopted as a principle, it has drifted into a casual acceptance through loose political thinking."[23]

To be more specific, viewed from the vantage point of 1931, it appears that the dogma emerged, gained a place of prominence, and continues as a somewhat vague first principle, because: (1) the natural-law theorists rationalized the convenient procedural device of small groups into a principle of universal ethical validity; (2) the social contract theorists based the operation of government upon consent of the governed; (3) "sovereignty" became a part of political metaphysics, and pretensions to it a contest in the realm of fact; (4) the idea of equality, as expressed by the social contract theorists, was understood to mean one man, one vote; and (5) the dogma of majority rule became useful as propaganda.

According to the group device theory, the use of the majority as a device was limited and contingent. It was of a special and particular character. But its increasing employment produced inevitable rationalizations and a consequent enthronement of the majority principle as one of universal validity and of general applicability. This tendency to disregard particulars and contingencies is ever present in political theorizing. In a sense, it is the very essence of political theory, or at least one of its essential characteristics. The majority principle was caught up in that stream of thought regarding *jus naturale,* with its appeal to natural reason. Thus we encounter in Grotius the idea that "the majority would *naturally* have the right and authority of the whole."[24] The same kind of reasoning is found several centuries later in Rutherforth's widely circulated *Institutes of Natural Law.* Says he: "It is plainly most consistent with *reason* that the sentiments of the majority should prevail and conclude the

[23] "The History of Majority Rule," *Quarterly Review,* January, 1912, p. 27.
[24] *De Jure Belli ac Pacis,* Bk. 2, chap. 5, sec. 17.

whole.''[25] Pufendorf denied that a majority vote was necessitated by reason or a principle of natural law; but he held, on the other hand, that the objection to its use, i.e., that it was contrary to nature for the wise few to submit to decision of the greater number of the less wise, was without great weight.[26]

We can find a marked effect of the institutionalized majority device upon Locke's ideas. In proceeding serenely to give an historical account of states in general, and to describe the process of government, he says: ''For, when any number of men have, by the consent of every individual, made a community, they have thereby made that community one body, with a power to act as one body, which is only by the will and determination of the majority. For that which acts any community, being only the consent of the individuals of it, and it being one body must move one way, it is necessary the body should move that way the greater force carries it, which is the consent of the majority, or else it is impossible it should act or continue one body, one community, which the consent of every individual that united into it agreed that it should; and so everyone is bound by that consent to be concluded by the majority. *And therefore we see that in assemblies empowered to act by positive laws where no number is set by that positive law which empowers them, the act of the majority passes for the act of the whole, and of course determines as having by the law of nature and reason, the power of the whole.*''[27]

The natural-law concepts of Grotius and Locke were destined to wide acceptance. A majority decision (in theory) came to be considered valid in all places and purposes. The procedural device of a group became, with them, that for the operation of the government of a national state. Here and there a voice was raised in protest.[28] But such protests were buried under the ideology of an additional concept—that of the social compact.

[25] Bk. II, chap 1, secs. 2 and 5.

[26] *Droit de la Nature et des Gens*, Bk. VII, chap. 2, sec. 15.

[27] *Two Treatises on Government*, Bk. II, sec. 96. Italics are those of the present writer. Locke thus bases the validity of the majority vote upon necessity, force, reason, and ''the law of nature.'' Rousseau, however, considered it contrary to the natural order that the majority should govern and the minority by governed. *Contract Social*, Bk. III, chap. IV. He bases its validity upon the terms of the contract itself. *Ibid.*, Bk. IV, chap. 2.

[28] Robert Filmer protests, saying: ''As to the acts of the major part of a multitude, it is true, that by politic *human* constitutions, it is often ordained that the voices of

The social compact theorists attempted to read a simple solution into the problem of authority in the national state. They sought by means of the social compact to justify civil authority, and they succeeded in creating "sovereigns" in the image of their own desires—Hobbes, a monarch; Locke, the "people." The period of the prevalence of the social compact ideology was a time of contest over authority in actual government. Out of this controversy came another concept that became a factor of utmost complexity in the statements of the dogma of majority rule. The divine right theory and its numerous defenders were forced to collect and concentrate all human governmental authority in the hands of the king, and claim, as against papal pretensions, that the monarch was supreme. When the doctrine of popular sovereignty arose, the "people" were imputed to have this vast "sovereignty" that had formerly been claimed for the monarch. When the term "majority rule" came into use, "rule" was understood to mean supreme power to command.[29] But the interposition of English individualism and the real difficulties that followed in fitting theory to practice resulted in vacillations.[30] The term "rule" became a fluid one, varying from the meaning above to that of a simple governing authority. "Rule" is only another term for what has been called "sovereignty," and, as Laski has pointed out, the theory of sovereignty, although born in one atmosphere, has received new emphasis or emphases in succeeding ones. Due to the great difference between "sovereignty" as defined by Hobbes on the one hand, and Locke on the other, the term "majority rule," when used by them, has different meanings.

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the most shall overrule the rest. . . . But in assemblies that take their authority from the *law of Nature* it cannot be so; for what freedom or liberty is due to any man by the *law of Nature*, no inferior power can alter, limit, or diminish; no one man, nor a multitude, can give away the natural right of another." *Patriarcha*, Chap. 2, sec. 6. For the controversy over these concepts in America during the nineteenth century, see B. F. Wright, *American Interpretations of Natural Law* (Cambridge, 1931), pp. 203-210.

[29] "Sovereignty," as formulated by Bodin, was "supreme power over citizens and subjects, unrestrained by the laws."

[30] With Locke, the sovereign power "can never be supposed to extend farther than the common good, but is obliged to secure every one's property by providing against those three defects . . . that made the state of nature so unsafe and so uneasy." *Two Treatises on Government*, Bk. II, sec. 131.

And likewise with other theorists who use both terms, the content of "rule" is coextensive with the powers of sovereignty.

The social compact theorists also contributed to the development of the dogma of majority rule by their statement of human equality. Hobbes himself unwittingly aided, proceeding upon a basis in accord with the "science" of his day. He believed that political theory must be based upon scientific knowledge. One of the first principles of Hobbes' "scientific knowledge" was that men are naturally equal. Nature, he thought, had made men so equal in the faculties of the body and mind that when all was reckoned together the difference between man and man was not so considerable as to allow any one man to claim a benefit to which another might not pretend as well as he.[31] Formulated by Locke, the idea was not essentially different. "The state of nature has a law of nature to govern it, which obliges everyone; and reason, which is that law teaches all mankind, who will but consult it, that, being all equal and independent no one ought to harm another in his life, health, liberty or possessions."[32] With a general agreement upon a set of axiomatic ideas portraying government as based upon individual consent, "one man, one vote" and the majority device accorded universal validity as being in harmony with "reason" and "natural law," it is not difficult to account for the dogmatic assumptions concerning "majority rule" as a careless, logical deduction; although it must be noted that individual theorists held various forms of these ideas, especially as to the "province of government," i.e., the extensiveness of "rule" or "sovereignty."

During the eighteenth century, the individualistic and democratic ideas of Locke and others were caught up by such thinkers as Condillac, Diderot, Voltaire, and Rousseau and pressed to their extreme conclusions. From this process of idea-squeezing, the dogma of majority rule constantly oozed, at times spreading beyond the writings of theorists into official enactments.[33] The ab-

[31] *The Leviathan,* Chap. 13. Hobbes justified the majority device on the ground of expediency, but did not, of course, contribute directly to the dogma of majority rule. His justification of the majority device is given in Chap. 16 of *The Leviathan.*

[32] John Locke, *Two Treatises on Government,* Bk. II, chap. 6.

[33] For example, in Article 3 of the bill of rights of the Virginia constitution of 1776: ". . . When any government shall be found inadequate or contrary to these purposes, a majority of the community has both an indubitable, inalienable and indefeasible right to reform, alter or abolish it. . . ."

solutism of the majority was stated by Rousseau as follows: "Except this original contract, the vote of the majority always binds the rest, this being a result of the contract itself."[34] "Law," according to the *Declaration of the Rights of Man and of Citizens*, "is an expression of the will of the community." "The nation is essentially the source of all sovereignty." All authority must be derived therefrom. As interpreted by the Abbé Siéyès, these statements mean that for most purposes the will of the majority is the source of all authority and the active factor in the conduct of government.[35] Rousseau's idea had been read into the immediate theory of the French Revolution.

The dogma of majority rule was formulated and reformulated, stated and restated, during the latter half of the eighteenth century, when the methodology of political science, following that of the natural sciences, was based upon an acceptance of a few undisputed axiomatic principles. These principles were used in France to attack the injustices of the old régime. They were weapon-like in character. The business at hand was not the formulation of a technique of political control, but the destruction of an older order of control.

Political experience is ever the laboratory for testing political ideas. Both the American and French Revolutions were carried on by men whose aspirations and ideals succumbed during the vicissitudes of actual conflict.[36] In America, Alexander Hamilton plunged into the Revolution with a set of "natural rights" ideas. After his experience with an unwilling Congress and the factions and jealousies of his countrymen, he came out with the firm opinion that it was time to lay aside the deceitful dreams of a golden age and to adopt as a practical maximum, not that man was "good" and "reasonable," but that the people of America, as well as other inhabitants of the globe, were remote from the happy empire of perfect wisdom and perfect virtue.[37] Hamilton, John

[34] *Contract Social*, Bk. IV, chap. 2.

[35] J. H. Clapham, *The Abbé Siéyès* (London, 1912), pp. 45, 75.

[36] "We have done with the romance of the Revolution," wrote Napoleon; "we must now commence its history. We must have eyes only for what is real and practicable in the application of principles, and not for the speculative and hypothetical." Quoted by D. O. Lumley, "Napoleon as Administrator," *Journal of Public Administration*, Vol. I, p. 135.

[37] *Works* (Constitutional ed.), Vol. XI, p. 41.

Adams, and Madison asserted the privileges of the propertied classes and the lack of wisdom of the multitude in the face of the dogma of majority rule. The framers of theAmerican Constitution provided a means of amendment, a system of election to the presidency, and a scheme for choosing senators completely out of harmony with the dogma. They also expressed themselves as in favor of judicial review of Congressional enactments that would offset the possible influence of the "popular branch," i.e., the House of Representatives. The division of power between the nation and the states, the separation of powers, and the extraordinary majorities prescribed for certain purposes may be adduced as additional evidence of their lack of sympathy with the dogma.[38] As for the French, once the obsession of the all-importance of the conflict between royalty and people was past, they approached in a more realistic manner the task of devising a system of governmental control. Both the French and the Americans turned to English experience and institutions for models, finding guidance in these rather than in the facile assumptions of eighteenth-century political theory. And in England, Edmund Burke attacked the dogma of majority rule headlong in his *Appeal From the New to the Old Whigs.*

IV. RESTATEMENTS OF THE DOGMA

Eighteenth-century political theory has influenced the political thinking of the nineteenth and twentieth centuries in numerous ways, and in respect to various doctrines specifically. Among these doctrines, that of majority rule has been received as a rather far-reaching, basic assumption. The writer is aware of no systematic treatise defending that assumption, either in regard to the facts of governmental organization and procedure or as to its ethical validity. If we correct an obvious misuse of terms—if we substitute "majority of the electorate" for "majority of the people"—the restatements of the dogma of majority rule appears to have one, or a combination, of the following meanings: (1) a majority of the electorate has a "right" to do anything it chooses; (2) a majority of the electorate has the "power" and

[38] The best summary of the lack of relationship of the dogma to American national government in practice is Charles A. Beard, "The Fiction of Majority Rule," *Atlantic Monthly*, Dec., 1927, pp. 831-836.

methods for doing whatever it chooses; (3) a majority of the electorate can be found supporting every law on the statute books; (4) a majority of the electorate has put in office the "government" and stands behind its every act; (5) the organization of government should be such that a majority of the electorate can, at any time (or continuously), control its activities. Regardless of whether encountered singly or in combination, these definitions, are, however, more in the nature of implicit assumptions than of explicit and logically developed expositions. The dogma has had no systematic expositor.

V. THE DEVICE OF CONSTITUTIONAL GOVERNMENT THEORY

The dogma of majority rule had hardly crept into political theory before it was challenged. Edmund Burke challenged it by violent diatribes against the entire ideology upon which it was based. The doctrine of the social contract, the idea of human equality, and the sovereignty of the multitude were vigorously denounced in his *Reflections on the French Revolution* and his *Appeal From the New to the Old Whigs*. In the latter work, he proceeded, as has been noted, to a direct and headlong attack upon the dogma of majority rule. He denied that it was an obvious principle; he denied that majority rule was "natural;" he denied any justification for majority decisions other than a pragmatic one. If majority decisions had become habits here and there in the process of constitutional government, well and good; but otherwise a majority decision was neither workable nor capable of justification.

Human government, as Burke saw it, could not be conducted on the basis of abstractions and universals. Governmental procedure and activity must rely upon the wisdom of past experience, as incorporated in existing constitutional arrangements. Prudence and expediency must be the directors—not a set of abstract rules, no matter how logically appealing. The "systematic simplicity" of a government proceeding upon such an abstraction as the dogma of majority rule was something unheard of, unthinkable, and inadvisable. According to him:

> What organ it is that shall declare the corporate mind is so much a matter of positive arrangement, that several states, for the validity of their acts, have required a proportion of voices much greater than that

of a mere majority. These proportions are so entirely governed by convention that in some cases the minority decides. The laws in many countries to *condemn* require more than a mere majority; less than an equal number to *acquit*. In our judicial trials we require unanimity either to condemn or absolve. In some incorporations one man speaks for the whole; in others, a few. Until the other day, in the constitution of Poland, unanimity was required to give validity to any act of their great national council or diet.[39]

Burke's ideas were stated more clearly and further developed by a reviewer in the *Edinburgh Review* at the middle of the nineteenth century.

> Apart [says this writer] from contract and constitutional arrangement, and ancestral and time-consolidated habit, the majority can have no more claim to decide for and control the minority than the minority can have to decide for and control the majority. There is no abstract principle on which such a claim can be based. The law of justice scouts it; the law of wisdom dreads it; the law of force, even, defies it almost oftener than it submits to it. A mere preponderance of numbers by no means implies preponderance either of capacity, of good intention, or even strength. Wisdom generally lies with the minority, fairness often, power not infrequently. There is, and can be, no law of nature, no axiom of eternal morals, in virtue of which three foolish men are entitled to bind and overpower two wise men, or three weak men two strong men. The truth we believe to be, that the claim so broadly made, and often so carelessly admitted—that the decisions of the majority shall be binding on the minority and shall have the force of law over all—is the mere result of tacit arrangement in the constitution of society; that the simple majority required at our hustings and in our Parliament, the *positive* or proportionate majority required in certain cases in America and France, the fixed majority required in Scotch juries, and the unanimity required in English ones—to give validity to the decisions of the respective bodies—are all alike matters of arrangement and not of natural right.[40]

The abstract "right" of majorities to rule has also been attacked by a number of writers who have concerned themselves with the so-called "tyranny of majorities." The chief argument that these writers have advanced against the abstract "right" of majorities to rule is that minorities also have "rights" which the majority has no "right" to override. The system of constitutional government, some of these writers hold, must be so devised as to place checks upon the action of majorities.[41]

[39] *Works*, Vol. IV, pp. 171-172.

[40] *Edinburgh Review*, January, 1852, pp. 257-258.

[41] An extended treatment of this attack, together with adequate references, is given in A. B. Hall, *Popular Government* (New York, 1921), pp. 146-171. The dogma of majority rule has been attacked by an endless succession of individuals. For widely

If these attacks are destructive of the abstract ethical validity of the dogma of majority rule, some of them touch also upon the question of the adequacy of the dogma as a principle underlying the operation of democratic government. The "will of the people," as some of these writers see it—whenever it may be deemed to exist—does not manifest itself at one *coup,* but unfolds, is constructed—and sometimes is even checked and overruled—through the actions of such constitutional authorities as the electorate, legislature, administrative authorities, courts, etc.[42] These constitutionally established groups must obviously employ some procedural method, and the majority device is a convenient one that may or may not be used. A statement of the device of constitutional government theory in relation to legislation has been given concisely by Arthur E. Bentley in the following terms:

> The distinction between majority and minority now comes to appear as a rule of thumb and not as crucial at all. Majority and minority are simply a bit of technique—a very important bit, of course, which becomes vital content at some stages of the governmental process—and they are tests mainly used in certain stages of the legislative part of the government work. . . . Anywhere along the majority and minority lines we may expect to find a law-making struggle going on. . . . Actual law tends to run well up toward general observance so swiftly that we hardly have a chance to notice it at the majority and minority line.[43]

Those who have contributed to the device of constitutional government theory of majority rule turn their attention to the organization and process of government rather than to speculations about the ultimate basis of authority. Burke and the Edinburgh reviewer indicate that, in conformance with constitutional arrangement, time-consolidated habit, or expediency, majority decisions might exist at places within the governmental process. A positive, although fragmentary, theory for the employment of majority decisions was advanced by John C. Calhoun, who shared Burke's opinion as to the fallacy of the individualistic basis of government and the doctrine of human equality. Majority de-

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held and persistent criticisms, see J. S. Mill, *Representative Government,* Chap. 7; Senator James A. Reed, in the *Congressional Record,* June 4, 1926; Mr. Justice Miller, in Loan Association v. Topeka, 20 Wallace 655; M. P. Follett, *The New State* (London, 1918), pp. 142-155.

[42] See A. F. Pollard, *The Evolution of Parliament* (London, 1920), p. 371; M. P. Follett, *The New State,* p. 142.

[43] *The Process of Government* (Chicago, 1908), pp. 283-284.

cisions, with Calhoun, however, were to follow neither habits nor expediency, but were to be based upon positive principles. The state, as Calhoun saw it, is composed of individuals—not in isolation, but organized as "great interests." The assent of all the great and distinct interests must be given to the measures of the government.[44]

> . . . there are [he says] two different modes in which the sense of the community may be taken; one, simply by the right of suffrage, unaided; the other, by right through a proper organism. Each collects the sense of the majority. But one regards numbers only, and considers the whole community one unit, having but one common interest throughout; and collects the sense of the greater number of the whole, as that of the community. The other, on the contrary, regards interests as well as numbers; considering the community as made up of different and conflicting interests as far as the action of the government is concerned; and takes the sense of each, *through its majority or appropriate organ*, and the united sense of all, as the sense of the entire community. The former of these I shall call the numerical, or absolute majority; and the latter, the concurrent, or constitutional majority.[45]

The most elaborate and systematic direct treatment, in the English language, of the institution and use of majority decisions in the process of constitutional government is that of Sir George Cornewall Lewis.[46] The activities of government are classified by him as administrative, judicial, legislative, and electoral, and he proceeds to a consideration of the question of advisability of deliberative group action in each of these activities. In groups exercising judicial and administrative functions, a plurality of members "insure a more careful and deliberative consideration of the question to be decided, on account of the diversity of opinions which are likely to be brought to bear upon it, as well as of the variety of appropriate knowledge and information, and of individual character and disposition."[47] In military and naval affairs, however, where rapidity of action and the concentration of responsibility are essentials, he finds that joint deliberation and consultation, and the process of reconciling discordant opinion by compromise and modification of plans, lead to "slowness, irresolution, vacillation, and inaction."[48] The conclusion he draws is that a constitution will entrust the exercise of judicial and administrative powers sometimes to one person, and

[44] Works, Vol. I, "A Disquisition on Government," etc.
[45] *Works*, Vol. I, p. 28. Italics are those of the present writer.
[46] *Op. cit.*, Chap. 7.
[47] *Ibid.*, p. 197.
[48] *Ibid.*, pp. 199-200.

sometimes to a group, according to the nature of the functions to be performed.[49] The advantages of corporate action also exist with respect to a legislative body, and unless a dictator voluntarily chosen by the people is to be considered a popular form of government, without the corporate action of the "supreme legislature" a popular constitution cannot exist.[50]

Granting the desirability of corporate action, the problem immediately arises as to the mode by which decisions are to be reached. In courts of justice and administrative bodies consisting of only a few members, it may sometimes be possible to employ unanimity, but in the case of legislative assemblies unanimity is impossible. To require unanimity would be to renew the evils of the tribunes' power in Rome, or the *Liberum veto* of Poland. Such a mode of procedure places the assembly at the mercy of any perverse faction or corrupt person. Hence, it has been found inexpedient to require the consent of more than a majority in legislative assemblies.[51] In the exercise of the electoral function—in the choice of a candidate by the majority of a popular constituency—it is necessary also to employ a majority decision.[52]

"Nobody," however, says Lewis, "supposes that such a decision does more than determine the legal questions; nobody imagines that it concludes the moral question of what *ought* to have been the decision . . . it hardly raises a presumption in favor of the winning side."[53] There is, he adds, no infallible security for the right decision of practical questions of politics, as in other matters. The necessity of recourse to such a device arises from the nature of political government and the expediency of a coercive supreme power which it implies. Whenever the ultimate decision is vested in a group, there is, by the supposition, no ulterior authority to weigh opinions; hence nothing remains but to count heads.

Lewis finds, however, that there are several conditions and

[49] *Ibid.*, p. 202.

[50] *Ibid.*, pp. 202-203.

[51] *Ibid.*, pp. 204-207.

[52] *Ibid.*, p. 225. But Lewis ridicules the idea that a representative is to be considered merely as an envoy of his constituents, entirely bound by instructions. "An attempt to govern the United Kingdom by polling every constituency, upon all questions involved in the daily business by Parliament, is so manifestly absurd that the mere statement of it is a sufficient refutation." Pp. 268-272.

[53] *Ibid.*, p. 212.

characteristics of corporate action that tend to modify the simple counting of heads, that tend to guide the group to a right decision, and that give a considerable weight to the opinions of the more competent members. There is always a possibility that the members of a body will be guided by the opinion of their more able and better informed colleagues; and this is especially true in administrative and judicial bodies, because the practice among civilized nations is to select members of such bodies with a view to their special capacities and fitness along judicial and administrative lines. In legislative bodies, decisions are commonly preceded by lengthy debates in which the opinions not only of the wisest but also of those least informed are presented. "Hence, although each question is decided by the votes of the majority, the votes of the majority are generally determined by the opinions of the minority."[54]

Several methods, says Lewis, have been tried in order to eliminate the evils of counting mere numbers. History affords instances in which opinions have been weighed instead of counted. Thus, the methods of voting by composite units, and the giving of a plurality of votes to certain members of the body politic, have aimed at the elimination of numbers. But they have been found unworkable. Necessity has made numerical-majority decisions the principle underlying corporate action. It is an imperfect method, but the best that can be devised.

The device of constitutional government theory does not consider the majority device either as the principle of democracy or as a descriptive general account of the operation of government in relation to the electorate or "the people." It is rather held to be a convenient method for decision-making in the processes of constitutional government. The electorate, the legislature, administrative boards, courts, and other legally-established groups charged with performance of definite governmental functions do, or may, make use of it. Decisions so reached are considered as not necessarily embodying greater force, greater wisdom, or greater ethical validity. Indeed, a naked numerical expression, unclothed by other factors that affect decision-making, stands suspect. In order to pass upon the ethics of a majority decision, the question must be raised and answered as to how the majority came to its decision.

[54] *Ibid.*, p. 216.

JUDICIAL ORGANIZATION AND PROCEDURE

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The Self-Governing Bar. "In the large city of today, there are thousands of lawyers, but there is no bar."[1] With this remark, Roscoe Pound five years ago called attention to the situation which had resulted in the United States from the absence of a corporate profession equipped to administer discipline and govern itself. The presence in all communities of lawyers whose character or equipment rendered them unfit to practice had brought the entire profession into disrepute and had contributed largely to the encroachment of banks, trust companies, and other lay agencies upon the legal field.[2] Absence of adequate organization representative of the entire bar prevented the lawyers of the country from exerting effective influence and leadership in politics and government—a weakness which manifested itself particularly in attempts to obtain legislation designed to improve the administration of justice through procedural reform, court reorganization, or changes in substantive law. Leaders of the profession have time and again asserted that the United States is the only progressive nation in the world without an integrated, self-governing bar. "In no state," remarked James Bryce, "does there exist any body resembling the English Inns of Court, with the right of admitting to the practice of public advocacy and of exercising a disciplinary jurisdiction; and in few have any professional associations resembling the English Incorporated Law Society obtained statutory recognition.... Being virtually an open profession, like stockbroking or engineering, the profession has less of a distinctive character and corporate feeling than the barristers of England and France have, and perhaps less than the solicitors of England have."[3]

The Canadian Bar. In Canada, the bar has from the beginning been a self-governed and self-disciplined body. In 1797, the lawyers of Upper Canada (the present province of Ontario) were authorized by statute to organize themselves into a Law Society, which was incorporated in 1822. A similar organization now exists in every Canadian province, the western provinces having had some form of statutory organization from the time they were given autonomous government. The Law Society of Upper

[1] "The Crisis in American Law," *Harper's Magazine*, January, 1926, reprinted in 10 *Journal of the American Judicature Society*, 5.

[2] For a recent discussion, see Frederick C. Hicks and Elliott R. Katz, "The Practice of Law by Laymen and Lay Agencies," 41 *Yale Law Journal*, 69 (November, 1931).

[3] *The American Commonwealth* (N.Y., 1911), Vol. II, p. 669.

Canada is governed by a representative body composed of thirty Benchers elected every five years by vote of the barristers in the province. Collectively, the Benchers form Convocation. Membership in the society is inclusive, every barrister and solicitor paying an annual fee to the organization and being subject to its discipline.[4] Convocation fixes the standards of legal education, conducts examinations, and calls to the bar. A term of articled clerkship is prescribed before admission is granted.[5] The courts exercise no control whatever over admission to the bar or over discipline. "Starting with legal and adequate powers," the lawyers of Ontario "never permitted their bar to become spotted with ignorant or rascally members."[6] As a result, it is said that Canadian lawyers are less given to sharp practices and breaches of professional honor than are their brothers in the States. There is no such demoralizing competition as often leads to an early loss of conscientious scruples on the part of the young practitioner in this country; hence members of the bar are more highly respected and the profession functions more effectively, particularly in the conduct of litigation and administration of justice.[7]

The Early American Bar. For a time, it seemed that in the United States also the English model might be followed in creating an integrated, autonomous, self-disciplined bar. In some of the seaboard states, there was an approach to a collegiate organization of lawyers. During the colonial period, legislative bodies, following the custom then prevailing in England, placed in the hands of the judges the function of admitting lawyers to practice in the local courts. In parts of New England, however, the judges permitted each county bar to exercise control over its own members. In Massachusetts, the Suffolk Bar, in 1771, adopted a regulation requiring that the consent of the bar should not be given to any young gentleman who did not have an education at college, or its equivalent in the judgment of the bar. In 1780, the same organization voted that no gentleman should take a student into his office for a less consideration than one hundred pounds sterling, and in 1783 that no lawyer should

[4] In Canada, the distinction between barristers and solicitors is no longer of particular significance; most lawyers belong to both classes and engage in the general practice of the law. Calling in special trial counsel is no more common than in the United States.

[5] The Law Society also maintains the law school at Osgoode Hall for training prospective members of the bar and appoints the principal, the lecturer, and the examiners.

[6] Editorial, "An American Bar in the Making," 10 *Jour. Am. Jud. Soc.*, 103. Also Herbert Harley, "Ontario Courts and Procedure," 12 *Mich. Law Rev.*, 447.

[7] In addition to the law societies, which are concerned solely with matters of a legal and business nature, there exist exclusive and voluntary bar associations, modeled after those in our states, to conduct general meetings and promote social relations.

in the future have more than three students in his office.[8] In 1768, the Essex Bar adopted a rule, later adopted by other Massachusetts county bars, that no lawyer should take young gentlemen to study with him without the previous consent of the bar; that a lawyer should recommend no persons to admission as Inferior Court attorneys without three years' study with some barrister, no persons to admission as attorneys in the Superior Court who had not, also, been admitted at the Inferior Court at least two years; nor should he recommend persons to admission as barristers until they had been through the preceding degrees, and had been attorneys of the Superior Court for at least two years.[9] In New Hampshire, a state bar association in 1788, and again in 1805, adopted elaborate "General Regulations for the Gentlemen of the Bar," prescribing, among other things, that no lawyer should receive more than three students in an office or receive any student without the consent of the county bar.[10] Other states had similar restrictive provisions regarding admission, sometimes formulated by bar associations and sometimes prescribed by rules of court or by statute. Admission requirements had been somewhat lax in New York at an earlier period, but after 1770 as "the bar became more compact in its organization and assured of its power, it gradually established very rigid rules, fixing requirements for office study by students desiring admission as lawyers."[11] Such rules tended to establish the bar as more and more of an educated guild. This condition, however, was not destined to last long.

The existence of a self-perpetuating class of lawyers, enjoying special privileges, did not accord with the dominant political philosophy of the early half of the nineteenth century. As Mr. Alfred Z. Reed has said in his volume on legal education, "the attempted development of a virtually independent bar, under cover of this judicial control, was contrary to the spirit of our developing institutions."[12] In another passage, he states: "Democratic desire to keep the privileges of practicing law within the reach of the average man accordingly reinforced the natural tendency of a unitary state to keep governmental functions under its own control, and so prevented one feature of the traditional English system—that of a self-determining bar—from securing permanent lodgment in this country."[13] This was particularly true in the states west of the mountains, where the democratic impulse was strongest. Control over admission of lawyers to practice passed from the bar to the

[8] Charles Warren, *A History of the American Bar*, p. 200 (N.Y., 1913).
[9] *Ibid.*, p. 196.
[10] *Ibid.*, p. 200.
[11] *Ibid.*, p. 196.
[12] Alfred Z. Reed, *Training for the Public Profession of the Law*, p. 37 (Bulletin 15 of the Carnegie Foundation, 1921).
[13] *Ibid.*, p. 28.

bench, and was exercised by such court or courts as the legislatures of the various states chose to designate. Hence, while the number of lawyers rapidly increased, there was no corporate profession with adequate powers of discipline and self-government.

A century ago, the close personal relationship of the lawyers with one another and with the bench served to maintain reasonably high standards in the profession. Even today, in rural communities, the same factors operate to restrain in some degree the less scrupulous members of the bar; but in the cities this condition does not exist. Attempts of the bench to govern the bar are largely unavailing. A large part of the lawyer's work is now done in his office or elsewhere outside of the court room, and the number of lawyers is so large that there is no possibility of effective control by the courts. On this point, Judge Clarence N. Goodwin of Chicago has said: "It has been my privilege to sit upon the bench both in the trial and appellate courts, and I know how impossible it is for those in that isolated position to exert any practical control over the actions of the thousands who constitute the bar. Naturally, the only effective action courts are able to take is upon information submitted to them, usually by the voluntary bar associations, and if we are frank with ourselves, we must admit that such efforts at bar government have been in the greater part a failure."[14]

Voluntary Bar Associations. A recognition of the low standards of professional conduct and a feeling of responsibility on the part of the more respectable practitioners led, during the latter part of the nineteenth century, to the organization of voluntary bar associations—national, state, and local. The first organization of the kind was started in New York City in 1870. Within a short time, the example was followed by Cleveland, Cincinnati, St. Louis, and Chicago. The first state bar association was organized in New Hampshire in 1873. By the summer of 1878, there were eight city and eight state associations in twelve states, with forms of organization patterned after that of the Bar Association of the City of New York.[15] In 1916, there were forty-eight state and several hundred local bar associations. In many of them, particularly in the eastern states and cities, an effort was made to select members on the basis of moral fitness, but in others membership was open to all lawyers desiring to join and willing to pay dues. In 1915, it was estimated that the aggregate membership of all of the state associations was about 25,000, or twenty per cent of the total number of lawyers.[16] A majority of the local associations were formed and maintained for the

[14] Address delivered before the annual meeting of the New York State Bar Association, January 20, 1922, New York City, printed in 5 *Jour. Am. Jud. Soc.*, 181.

[15] Alfred Z. Reed, *Training for the Public Profession of the Law*, p. 206.

[16] *Am. Bar Assoc. Jour.* (October, 1915), p. 566.

promotion of social intercourse among lawyers and for the establishment and maintenance of law libraries, as well as for the restoration of ethical standards to the profession.

Those associations organized on a selective basis were fairly careful not to admit or retain in membership the unworthy elements in the profession, to the end that the younger lawyers might look upon affiliation with the groups as a badge of professional attainments and high moral character. In addition, they endeavored to keep watch on practitioners outside the fold by maintaining grievance committees, which succeeded in procuring the disbarment of some of the worst offenders. In urban areas, the city associations were able to accomplish more in the way of discipline than did the state organizations. The latter were primarily concerned with the more efficient administration of justice, and to this end sought to obtain appropriate legislation.

In spite of some substantial achievements to their credit, these voluntary bar associations proved disappointing to many professional leaders. By reason of clique control and the relatively small proportion of lawyers belonging to them, they could not be regarded as representative of the profession as a whole. Hence, such recommendations as they made to legislative bodies were usually regarded as emanating from a small and not particularly important group of practitioners, and for this reason received scant respect and attention. Nor were they more successful in their efforts to restore public confidence in the legal profession through enforcement of high standards of professional conduct. Lack of official status and a relatively small enrollment, comprising not more than a fourth of the profession, have stood in the way of effective disciplinary action.

Movement for Statutory Integration. The extremely slow progress being made by voluntary organizations in purging the profession of undesirable elements, and the failure of the bar to regain its lost leadership in public life, convinced some of the leaders of the profession that an inclusive professional organization should be effected by means of legislation. It was perhaps natural that one of the first proposals suggested the incorporation of existing state bar associations, with provision for inclusive membership. Accordingly, the American Judicature Society, in 1918, prepared and published a draft of a bar organization act[17] providing for incorporation, with democratic control through a representative board of governors with large executive powers over admission to practice, discipline, and disbarment. Later, the Conference of Bar Association Delegates, at a meeting in Boston in 1919, appointed a commit-

[17] Published in 2 *Jour. Am. Jud. Soc.*, 111.

tee on state bar organization, with Judge Goodwin as chairman. At the meeting of the Conference in St. Louis in August, 1920, this committee submitted a report[18] in which it endorsed the creation of state bar organizations which should be inclusive of the entire bar and possess broad powers of admission and self-government, but disagreed with the proposal to incorporate existing bar associations. The committee entertained some doubt concerning the power of a legislature to compel a lawyer to become a member of such a corporation against his will. It further called attention to constitutional provisions in some states prohibiting the creation of corporations by special act. These difficulties led to an analysis of the legal situation, and as a result the committee came to the following conclusion: (1) members of the supreme court bar of a state are officers of the court and have a definite legal status as a part of the state government; (2) they are the advising and moving officers of the court, just as the judges are its deciding and decreeing officers; (3) the responsibilities of lawyers for their actions in court are the responsibilities of government officials, and not those of private citizens; (4) hence, what is needed is not the transforming of an existing state bar association into a corporation created by special statute, but legislative action providing for the organization and functioning of the state supreme court bar in legal recognition of the fact that the existing bar is a body politic and an integral part of the judicial machinery of the state. A model bar act, based on this analysis, was drafted by Judge Goodwin's committee and published in the *Journal of the American Judicature Society* for December, 1920.

By this time, the movement for statutory integration was making surprising headway in a number of states. In 1921, draft acts were approved by state bar associations in Ohio, Florida, and Michigan, and submitted by them to their several state legislatures. The Nebraska State Bar Association, at its conventions in 1920 and 1921, approved the principle of a state bar officially organized by legislative action, but declined to take favorable action on the draft submitted by its committee. In other states, proponents of the plan were organizing active campaigns. The most serious opposition was encountered in Illinois and New York. In the latter state, the important local associations in New York City, the Association of the Bar of the City of New York and the New York County Lawyers Association, were largely hostile. At a special meeting of the Conference of Bar Association Delegates in Washington in 1926, the chairman, Mr. Charles Evans Hughes, in his opening address,[19] referring particularly to the opposition in New York,

[18] *Ibid.*, p. 83.

[19] Partially reported in 10 *Jour. Am. Jud. Soc.*, 13.

stated that the objections sprang from two fears: first, the fear that the plan would not work; and second, the fear that it would work. With reference to the first, he remarked: "It is said that you cannot overcome the inertia of a great number of lawyers who do not feel their responsibility. . . . You can't legislate into lawyers a sense of their duty. You can't compel them to recognize standards by making them members of a state bar organization." The second objection, he said, arose from a fear on the part of the local associations that the less respectable element of the bar, whom they considered unfit for equal participation, would gain control of an inclusive organization. They were fearful, moreover, lest their voluntary organizations, with their properties and other facilities, would be submerged and lose their identities in the larger movement. Only through these associations, they thought, could the gains already made be retained and further progress achieved.[20]

However, if New York and the other states with large urban centers were reluctant to attempt statutory integration, there were other commonwealths that were willing to make the experiment. The first of these was North Dakota, where the state bar association, in 1921, submitted to the legislature a draft act providing for incorporation of the entire bar of the state, following as closely as possible the Canadian legislation on the subject. The legislature rejected this measure, but passed in its place a brief and simple act creating the Bar Association of the State of North Dakota, making all practicing lawyers members, and providing for organization and self-government, but not specifically giving any power over admission or discipline of members. Although the leaders of the integration movement would have preferred a more comprehensive measure, they were nevertheless delighted that one state at least had officially established a self-governing bar with inclusive membership.

Two years later, statutes were passed creating integrated bars in Idaho and Alabama. The Idaho act, however, was subsequently declared unconstitutional by the supreme court on the ground that, in conferring corporate powers on the board of commissioners elected by members of the state bar, it violated the constitutional injunction against the creation of corporations by special act.[21] The majority of the court saw nothing to prevent the legislature from providing by general law for the voluntary incorporation of the Idaho state bar, but declared that the

[20] The controversy in New York gave rise to a series of articles in the *New York Law Review*. Julius Henry Cohen set forth the advantages of an all-inclusive bar in "The National Call for the Organization of the Bar," 4 *New York Law Review*, 81 (March, 1926) and 135 (April, 1926). William D. Guthrie set forth the disadvantages in "The Proposed Compulsory Incorporation of the Bar," *ibid.*, 179 (March, 1926), and 223 (April, 1926).

[21] Jackson v. Gallet, 39 Idaho 382, 228 Pac. 1068.

state could not "force its bounty on private persons by incorporating them without their consent and against their will." If lawyers were to be singled out and incorporated by special act, the court could see no good reason why similar action could not be taken with reference to plumbers, carpenters, or members of any other trade or calling. The objections of the court, however, were overcome by an amended act passed in 1925 which recognized that the practice of the legal profession was a privilege granted by the state, and created an inclusive state bar for the purpose of protecting the public against "unprofessional, improper, and unauthorized practice of law and unprofessional conduct of members of the bar."[22]

The New Mexico legislature passed a state bar act in 1925. In California, in the same year, a thoroughgoing and intensive campaign of several years' duration led to the approval of a proposed act by the state bar association and its passage by the state legislature. Success was temporarily postponed by Governor Richardson's veto, but the measure was again passed in 1927 and signed by Governor Young. Nevada in 1928 and Oklahoma in 1929 adopted state bar acts substantially the same as the California measure. A further advance was made in 1931, when Utah and South Dakota[23] were added to the list of states with self-governing bars. In the same year, state bar acts were passed by the legislatures of Arizona and Wyoming, only to meet with executive vetoes. It is anticipated that further efforts in both states will prove successful. In 1932, bar bills will be introduced in Kentucky, Virginia, and Mississippi. In 1933, it seems likely that Oregon, Washington, Michigan, Ohio, Texas, and possibly Minnesota, will be on the list.

Machinery of the Self-Governing Bar. All of the state bar acts except those in North Dakota and South Dakota provide in detail the governing machinery, together with the manner of electing officers, their number, qualifications, terms of office, powers, and duties. The act of North Dakota refers to a president and secretary-treasurer, having otherwise left the question of organization to be settled by the state bar association; the South Dakota act provides for a board of commissioners, also having left other details to the state bar. In the other seven states, each act creates a representative governing board, known as the board of governors, or the board of commissioners, of the state bar. The number of board

[22] The constitutionality of the amended act was sustained in the case *In re* Edwards, 45 Idaho 676, 266 Pac. 665.

[23] The draft act approved by the South Dakota State Bar Association, and submitted to the legislature, closely resembled the California law, but it met with such strenuous opposition in the legislature that during the closing hours of the session there was introduced and passed a substitute measure similar to the skeleton organization law of North Dakota.

members varies from three in Idaho to twenty-one in Alabama. District representation is provided for, with judicial districts or circuits serving as geographical units, except in California, where governors are elected from congressional districts, and in Nevada and Idaho, where they are selected from districts formed of groups of counties. In both Oklahoma and California, there are also four members elected from the states at large. In Nevada, the term of office is one year, and in Oklahoma one year for district governors and four years for governors at large. In other states, provision is made for overlapping terms of three years, except in California, where the term is two years. Detailed provisions cover nominations by petition and voting by means of ballots sent through the mail. Governors or commissioners receive no compensation except mileage and expenses. In each state except Alabama, where the president is elected by the state bar at its annual meeting and need not be a member of the board, the president and vice-presidents are chosen by the board of governors from their own number; a secretary and treasurer, or secretary-treasurer, are also selected by the board, and ordinarily need not be members of the state bar. Provision is made also for the creation of committees, sometimes called local administrative committees, whose principal function is to conduct hearings in disciplinary matters, thereby supplanting the grievance committees of the voluntary associations.

Admission to Practice. From the beginning of our history, except for the early and comparatively short existence of inclusive self-governing bars in some sections along the Atlantic seaboard, our courts and legislatures have exercised complete control over admission to the practice of law and over the discipline of lawyers. As a rule, the legislatures have prescribed requirements and standards of admission and authorized the courts to admit applicants who have demonstrated their ability to comply with such standards and requirements. More recently, boards of bar examiners have been established in a majority of states with authority to conduct examinations and certify successful applicants to the courts for admission. While the various state bar acts have entrusted to the bar itself important functions in this connection, there has nowhere been a willingness on the part of legislatures to confer the same jurisdiction over admission which the Canadian law societies enjoy. The legislatures in some states have insisted on reserving the right to fix educational requirements, and in no instance has the state bar been authorized to admit to practice. At present, under the state bar acts, the governing boards are generally empowered to determine by rules the qualifications and requirements for admission, subject to approval by the supreme courts. In Alabama, however, educational qualifications and the subjects to be examined upon must be fixed by law. In Idaho and Utah, the gov-

erning boards are required by the state bar acts to conduct examinations; but elsewhere they are authorized to create and appoint examining committees for this purpose. In no state can the bar authorities do more than recommend candidates to the courts for admission.

Under the California act as originally passed, the board of governors was given power to determine qualifications for admission, subject to approval by the supreme court. But in 1929 this grant of power was eliminated by an amendment providing that any person over twenty-one years of age might apply for admission upon presentation of satisfactory testimonials of his good moral character, together with satisfactory proof that he had diligently and in good faith studied law for at least three years. Once more, the bar was "made safe for democracy." The supreme court, however, stepped into the breach, holding that certain code sections prescribing standards of admission prior to the passage of the bar act were still in effect. Furthermore, the court, while conceding the power of the legislature to prescribe the procedure to be followed in matters pertaining to admission, expressed the opinion that no legislative act would be valid which would "substantially impair the constitutional powers of the courts, or practically defeat their exercise."[24] This expression was in accord with a doctrine of relatively modern origin, based on the principle of separation of powers, to the effect that the power of admitting lawyers to practice is a part of the judicial power, in the exercise of which the courts cannot, under the state constitutions, be controlled by legislatures. The original bar act had required the supreme court's approval of rules regarding qualifications for admission, and the court regarded this as an indirect way of saying that the qualifications were fixed by the authority having power to make orders of admission. At most, the committee of bar examiners of the state bar was an effective aid to the court in the performance of its important function of admitting to practice, without which the work of sifting the increasing number of applicants could hardly be performed. But the court insisted on its power to admit an applicant even though he had been rejected by the bar examiners. However, notwithstanding that the action of the committee was merely recommendatory and not binding on the court, the latter would not exercise its power in contravention of the adverse recommendation of the committee unless a convincing showing was made by the applicant that the action had not been based on sound premises and valid reasoning.

Discipline. Except in North Dakota and South Dakota, all of the state bar acts confer rather broad powers of discipline on the state organizations. The governing boards are empowered to formulate rules of pro-

[24] Brydonjack v. State Bar, 208 Cal. 439, 281 Pac. 1018.

fessional conduct, subject to the approval of the supreme courts, and to take necessary steps for their enforcement. To this end, the governing boards are authorized to receive and investigate complaints, conduct hearings, and take appropriate disciplinary action by public or private reprimand, suspension, or disbarment. The boards, as well as local administrative committees, may administer oaths and compel the attendance of witnesses and the production of documentary evidence. In each act, rights of an accused member are safeguarded by provisions requiring reasonable notice, representation by counsel if desired, and compulsory attendance of witnesses on his behalf. Local administrative committees are commonly utilized to conduct hearings, make findings, and report to the governing boards. In Utah and Idaho, the bar acts expressly provide that the boards shall merely investigate and pass on complaints and thereafter report their findings and recommendations to the supreme courts for further action; and the supreme courts of Nevada and California have read a similar provision into the acts of their states. Under the acts of each of the other states, the governing board itself may take disciplinary action, subject in every case to the right of the accused to obtain a review in the supreme court.

In California, objections were urged to the exercise of disciplinary powers by the governing board, on the ground that the legislature had violated a constitutional provision designed to keep the three departments of government separate. By creating a tribunal with jurisdiction to hear and determine cases involving professional misconduct, the legislature, it was argued, had encroached on the domain reserved to the judiciary. In meeting this objection, the supreme court employed an ingenious bit of judicial construction. Although Section 26 of the act plainly gave the board of governors power to discipline members by reprimand, suspension, or disbarment, and provided for judicial review of its action, the supreme court held that the board was merely an intermediary agency created for taking evidence and reporting its findings to the court, and that its decision was purely "recommendatory." Disbarment or suspension could be effected only by an order of the supreme court. Hence, the board of governors was exercising neither judicial nor quasi-judicial functions.[25] The same reasoning was adopted by the supreme court of Nevada in a similar case.[26] The supreme court of New Mexico likewise declared that disbarring an attorney is a function reserved to the courts, and one which the legislature cannot confer on the governing board. Hence a lawyer was held not guilty of contempt for violating an order of the board disbarring him from practice.[27]

[25] *In re* Shattuck, 208 Cal. 6, 279 Pac. 998.
[26] *In re* Scott, 292 Pac. 291.
[27] *In re* Royall, 33 N.M. 386, 268 Pac. 570.

But if final judgment is reserved to supreme courts, both as to admission and discipline, at least these tribunals are in sympathy with efforts to improve professional standards. As the state bars, by perfection of their machinery and conscientious and efficient discharge of their functions, entrench themselves in public favor, it seems almost certain that the courts' approval of bar rules and decisions will in nearly all cases be purely perfunctory.

Observations. It is too early as yet to pass final judgment on the self-governing bar in the United States. There is every indication, however, that it has won the support and confidence of a vast majority of lawyer-members. Control and leadership have been placed in capable hands. Fear of domination by the less respectable practitioners has not been realized. If, in the long run, it should become more and more difficult to enter the legal profession, at least the public is not likely to shed tears over an institution calculated to limit the number of lawyers.

Fear was expressed lest local bar associations would lose their identity, or perhaps pass out of existence under an official state bar régime. Fortunately, a test has been afforded in at least one state having large cities and strong local associations. Experience in California is enlightening. In Los Angeles, a very strong and active bar association has existed for many years. Relieved in large measure of the burdensome work of discipline, which is usually beyond the powers of such bodies, this organization is now in a better position to carry on its other work and is devoting itself in large part to social activities and to affording assistance to voters in nominating and electing approved candidates for judicial office.

There were some people, also, who feared that an inclusive bar would prove to be a flabby organization composed of discordant elements incapable of coördinated action. But there are indications that this type of organization is more influential than a voluntary bar association in obtaining legislative action. In 1931, the California legislature enacted without the slightest amendment a measure prepared and sponsored by the state bar, completely revising the corporation laws of the state. The actual work of revision was performed by a specialist in the field who was employed and paid by the organization. The old state bar association would almost certainly have been unable to carry out such a program. Lack of funds would have been a serious handicap—a substantial part of the annual income would have been required to pay the expense of preparing the draft. Compulsory payment of dues by every lawyer in the state, however, affords the official bar an income several times larger, and sufficient to finance its activities.

The work of reforming the legal profession through maintenance of high standards of admission and enforcement of adequate rules of pro-

fessional conduct will obviously not effect any far-reaching changes in the space of a few years. In the meantime, these matters will no doubt occupy much time and attention; but in the long run the self-governing bar must justify itself principally as an effective means of meeting the public responsibilities of the profession. Coöperating with other public agencies, particularly the judicial council, it must labor for vitally necessary improvements in civil and criminal procedure and judicial organization and administration, and must assume large responsibility for needed changes in the substantive law. Proponents of the movement are heartened by the fact that in every country where the administration of justice has been strikingly improved, the autonomy and *esprit de corps* of the bar have been permanent underlying factors.

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The Federal Judicial Conference. The Conference held its ninth annual meeting in Washington on October 1-3, 1931.[1] Authorized by the Judiciary Act of September 14, 1922,[2] the conference of the senior circuit judges with the Chief Justice of the Supreme Court and the Attorney-General has become an established part of the judicial system of the United States. The reports of these conferences are to be found in the annual reports of the Attorney-General, beginning in 1924. The 1922 and 1923 reports may best be found in the *Texas Law Review*, Vol. II, pages 445 and 448, and in the *Journal of the American Judicature Society*, Vol. VIII, pages 85 and 92. In view of the general inaccessibility of the reports of the Attorney-General to the legal profession, it has been suggested that they be published in the Supreme Court Reports. The suggestion has not as yet, however, been adopted.

The annual gathering of the circuit judges, long desired by the late Chief Justice Taft,[3] and by various bar associations, has added much to the knowledge of federal judicial statistics, and has gone far toward relieving congested dockets and overworked judges through recommendations to Congress and alterations in judicial administration. The seriousness with which it has attacked its work and the value of its recommendations to Congress have long since overcome the grotesque fears of those who urged that the "annual junket to Washington"[4] would place the judiciary in a self-seeking position, cheapen the bench, result in propagandist campaigns, and break down the doctrine of checks and balances by making the judiciary a legislature.

[1] See *U. S. Daily*, Oct. 7, 1931.

[2] 42 Stat. 837, 838; Sec. 218, Title 28, U. S. Code.

[3] 62 *Cong. Rec.*, 203.

[4] Mr. Lea of California, 62 *Cong. Rec.*, 204.

In view of the difficulty of determining accurately in Congress the need of creating additional district and circuit judgeships, establishment of which was perennially urged by the Department of Justice and the bar associations, Congress ordered the Conference to gather statistics relative to the nature, accumulation, and disposal of business in the districts and circuits. Accordingly, beginning with 1923, the annual report has contained tabulations of cases pending, commenced, and terminated under the four categories of (1) civil cases to which the United States is a party, (2) criminal suits, (3) private suits, (4) bankruptcy proceedings. While, unfortunately, uniformity of statistics has been attained only in the last three reports, the figures presented with regard to the number of cases pending at the end of each judicial year point, to a certain extent, to the difficulties experienced by the courts in catching up with their dockets.[5]

The major labors of the Conference have been concerned with the discovery and consideration of means of facilitating justice, easing the burdens of overloaded judges, and developing the mechanics of procedure. Each conference has returned notation of congested district court dockets, and the 1931 report has been the first to state that the circuit courts are "well up" on their arrears.[6] The charge made in Congress that the judicial statistics were inflated with "dead cases" and designed to give the appearance of need for more judges, whereas in reality no such need existed,[7] is not entirely fair. However, while the conference has recommended the creation of additional district judges and the erection of a new circuit,[8] it has met the charge with regard to dead cases by urging the judges to use their discretionary power to delete all cases not actively moved by counsel within one year.[9] The Conference has looked with favor upon the transfer of district judges from one district to another within their circuits in order to relieve congestion.[10] It has, however, frowned upon routing judges out of their own circuits to relieve tem-

[5] The following will give an idea of the number of cases pending in the federal courts:

Type	*1923*	*1924*	*1925*	*1926*	*1927*	*1928*	*1929*	*1930*	*1931*
Civil	13,083	15,713	18,092	18,455	16,187	18,456	21,108	21,642	21,320
Criminal	67,173	63,943	46,725	38,858	35,246	31,500	31,353	27,895	35,849
Private .	40,193	40,319	38,525	38,368	38,370	39,351	37,503	36,776	37,151
Bankruptcy	57,338	59,208	59,959	Incomplete		58,870	58,802	66,423	61,410

[6] *U. S. Daily*, Oct. 7, 1931.

[7] 67 *Cong. Rec.*, 10946.

[8] See report of 1928 conference, in Attorney-General's Report (1928), p. 4. Congress partially met this request. The 1930 conference urged the Attorney-General to make a thorough investigation of the entire judiciary and its work.

[9] See 1926 report, p. 7. The 1927 meeting found 40.73 per cent of cases inactive.

[10] See 1927 and 1928 reports.

porary situations in other circuits.[11] Each circuit judge has been urged to equalize and adjust the pressure within his own circuit.[12] In this connection, the 1931 conference recommended that annual conferences of the judges of each circuit be called by the senior circuit judge.[13]

The Judicial Conference has made certain requests to Congress designed to facilitate and expedite the work of the individual judges. It was reported that certain judges were not adequately supplied with necessary or complete law books and court reports. Accordingly, the 1923 session recommended that Congress set aside a small sum for the purchase and supply of such necessary tools.[14] Provision for more adequate secretarial aid for judges, and the appointment of a law clerk for each circuit, were solicited.[15] The 1928 conference advocated alteration of existing mail regulations to enable judges to send an unlimited number and weight of manuscripts through the mail without charge.[16] Judges have been limited in the amount and weight of the matter which they may send free through the mails from the places where they are sitting to their homes or to other places where they hold court.

On the mechanics of court procedure, the conferences have made important suggestions to Congress. They have also wrought important improvements through the rule-making power, control of dockets, and the discretionary jurisdiction of the judges. Their efforts have been directed at eliminating loop-holes in procedure and stopping undue delays in litigation. Particular attention has been devoted to criminal, bankruptcy, and equity proceedings. The judges early noted a tendency to misuse the federal conspiracy statutes,[17] causing delays and complexities through the introduction of parties and evidence from distant places. The 1927 conference urged judges to advance all writ of error and habeas corpus cases involving crime as rapidly and as far on calendars as circumstances would allow.[18] Limiting the present influence of attorneys over the selection and empaneling of jurors has been suggested. In its place, a greater degree of control by the bench is being slowly inaugurated.[19] Limitation of stays in mandamus to thirty days, pending appeal on *certiorari*, has been suggested with a view to speeding up the process of appeal and

[11] See 1931 report. Fears of a "flying squadron," "carpet bag," judiciary have been at rest. 62 *Cong. Rec.*, 204.

[12] Recommendations of 1931. *U. S. Daily*, Oct. 7, 1931.

[13] Approved 1930, 1931. Adopted, though not ordered by law.

[14] See 1925 report, pp. 7-8. Congress complied with the request.

[15] Not yet provided for. Requested for the last four years.

[16] See 1928 report, p. 4.

[17] See 1925 report, p. 6.

[18] See 1927 report, p. 7.

[19] See 2 *Texas Law Rev.*, 449; Kurczak v. U.S., 14 Fed. (2d) 109 (6th Cir.).

ending indeterminate escape of sentence.[20] Thorough examination of the possibility of more frequent waiver of grand jury has been ordered.[21] Finally, change of prosecution of prohibition law offenders from the Treasury Department to the Department of Justice was urged by the Conference.[22]

The judges in the Conference have taken a leading part in a movement for the reform of bankruptcy proceedings and laws. Study in coöperation with the American Bar Association and other organizations resulted in suggested amendments directed at dishonest bankruptcies.[23] In its 1924 report, the Conference urged revision of the federal statutes so that "all judgments, decrees, orders, and proceedings in bankruptcy shall be reviewed by appeal only, and that to be speedily taken."[24] Following requests by the Conference, the Attorney-General reported to the 1931 gathering that as yet the federal bankruptcy statutes fail to achieve their central purpose, permit exploitation of the courts, and require radical and general revision. The Conference accepted the report and is recommending to Congress such revision as will insure (1) more thorough examination of bankrupts, (2) more rapid liquidation and relief for wage-earners connected with the bankrupt, (3) appointment of more efficient trustees and adequate representation of creditors, and (4) a larger measure of summary procedure.[25]

In conclusion, it may be said that the fears expressed in Congressional debate concerning the establishment of the Federal Judicial Conference have failed to materialize. The Conference has become a valuable asset, rendering easier and more intelligent the task of Congress in providing adequate judicial machinery for the United States. The annual "junket" to Washington is resulting in a steady elimination of the evils so deplored by those who opposed the creation of the Conference.

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[20] See 1927 report, p. 7. It is interesting to note the adoption of this rule by Judge Wilkerson in the Capone income tax evasion case. *N. Y. Times*, Oct. 25, 1931.

[21] See 1931 report.

[22] See 1924 report, p. 1.

[23] See 49 *Am. Bar Assoc. Reports*, 461. In 1925, the Supreme Court ordered several of these recommendations to be enforced. See 267 U.S. 613; 268 U.S. 709.

[24] See 1924 report, p. 1.

[25] Report for 1931. See also editorial on report of Solicitor-General Thacher regarding defects and proposals, *N. Y. Times*, Oct. 13, 1931.

The German Presidental Election of 1932.* The second regular presidential election held in Germany since the adoption of the present constitution was completed on April 10, following the failure of each of the five candidates to poll a majority of the popular votes at the first election on March 13. As a result of the election, President Paul von Hindenburg was reëlected for another term of seven years beginning May 5. This election was important, first, because the Weimar constitutional system was threatened, and secondly, because the threatening force, Hitlerism, if victorious, not only presaged a profound change in the existing form of government in Germany, but might have been the prelude to internal strife, affecting the financial stake of the world in Germany, and possibly endangering international peace.

There were five candidates for the presidency in the first election: President Paul von Hindenburg, the idol of many patriotic Germans, eighty-four years of age, military commander during the World War, elected president of the German Republic in 1925 against the opposition of the Social Democratic party which supported him in the 1932 campaign; Adolf Hitler, leader of the National Socialists, first admitted to German citizenship on the eve of the election, forty-three years old, oratorical genius and expert in political propaganda; Ernst Thälmann, former transport worker, ambassador of Russian communism in Germany; Theodor Duesterberg, former army officer, strategical candidate of the German Nationalists and the newspaper owner Hugenberg; and Adolf Gustav Winter, political curiosity, at the time of the election serving a jail sentence, elevated to candidacy by his own personal ambition and the credulity of a few thousand holders of worthless German currency. Hitler, Thälmann, and Duesterberg were nominated by the National Socialist, Communist, and German Nationalist parties respectively. The nominations of Hindenburg and Winter were accomplished by special petitions requiring the signatures of at least 20,000 eligible voters. In the case of Hindenburg, the petition was circulated by more than 1,100 German newspapers under the supervision of a special multi-party committee, and ultimately contained more than 3,630,000 signatures.[1]

The outstanding issue of the campaign was Hitler. To elect or to de-

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[1] Presidential nominations may be made in one of two ways: by petitions signed by 20,000 eligible voters, or by a group or party proposal signed by only 20 voters, if such group or party has a representative in the Reichstag and received at least 500,000 votes at the last Reichstag election. Gesetz über die Wahl des Reichspräsidenten, March 6, 1924, par. 2.

feat him determined the strategy of the party leaders and was the thought uppermost in the minds of the 37,889,626 voters who went to the polls on March 13, and of the eighty-three per cent of qualified voters who took part in the election on April 10. But there were also racial, religious, sectional, economic, philosophical, and social issues; rational and irrational, personal and impersonal stakes involved, of baffling complexity. From one point of view, the election was a battle of three great systems of thought: German socialism, Hitlerism, and communism. What German socialism is can be gleaned only from a study of the philosophy and practice of the Social Democratic party, numerically the largest of the several parties which supported Hindenburg in this election. What Hitlerism really is can, in the last analysis, be discovered only if and when he comes into power. What the aims of German communism are can be judged only on the basis of the Russian experiment. The leading German political parties today are not "program-parties" contending within the limits of an existing constitutional system, restricted in their aims by legal considerations, but revolutionary, "integrated" parties, *weltanschauung* movements with inclusive social, political, and economic outlooks.[2] The election was also a contest between Protestantism and a "tolerated" alliance of Marxian Socialism and Catholicism;[3] a struggle between farmers and industrialists; between the younger and the older generations; between Prussia and the smaller German states; between inflationists and non-inflationists; between subsidized business and non-subsidized undertakings; between labor and capital; between the unemployed who are governmentally insured and those who are not.[4] The individual voter expressed at the polls a partially reasoned, partially emotional, composite reaction to all these conflicting issues, and really had to decide whether he personally would gain or lose by a revolutionary change in executive state leadership.

In order to understand this election it is necessary to remember that the loss of the war has created in Germany a psycho-pathological condition; that the inflation ruined economically millions of the professional and middle classes; that the German form of socialism has, through its system of social insurance, unemployment insurance, expansion of public undertakings, and subsidization of private business, effected a real redistribution of wealth; that the economic crisis has left more than 6,000,000

[2] For a good discussion of the nature of modern political parties in Germany, see Professor S. Neumann, "Die Deutschen Parteien," *Junker und Dünnhaupt*, 1932.

[3] As disclosed in an article by Johannes Müller, Protestant pastor in Leipzig, entitled, "Die Evangelischen und der Staat," *Frankfurter Zeitung*, April 8, 1932.

[4] Unemployment figures for March 31, 1932, were 6,031,000, of which 1,579,000 received regular unemployment insurance, 1,744,000 emergency aid. Others were supported by private or local aid.

unemployed; that the Protestant church has never fully recovered from the revolution of 1918-19; that the younger generation faces with disillusionment a future seemingly devoid of opportunity; that the normal parliamentary system has been suspended; that Prussia, with sixty-one per cent of the population, still retains a considerable degree of political and economic hegemony; and that Germany is far from being independent from external control, economically or politically. This is not the place to elaborate upon these environmental factors, but their importance in a presidential election may not properly be disregarded.

Germany is a state with numerous, inclusive, and highly integrated social, religious, economic, semi-military, and political organizations. There were eleven political parties which, by reason of their showing in the Reichstag elections in 1930, were entitled to nominate candidates for the presidency in 1932 without employing a petition signed by 20,000 voters.[5] Their distribution of representatives in the Reichstag in 1932 was as follows: Social Democrats, 143; National Socialists, 107; Communists, 77; Center party, 68; German Nationalists, 41; German People's party, 30; Economic party, 22; Democratic party, 15; German Agricultural People's party, 21; Bavarian People's party, 19; Christian Socialists, together with Conservative People's party, 21;[6] The Reichstag in 1930 consisted of a total of 577 representatives, and the Brüning cabinet was supported from that time down to the election by a "tolerating" coalition of middle parties, of which the Social Democrats, the Center party, the German People's party, the Economic party, and the Democratic party were the most important numerically. Brüning himself is a member of the Center party, a Catholic group that has held a key position in this Weimar coalition since the war. The three major opposition groups, National Socialists, German Nationalists, and Communists, have been consistent in their opposition to this coalition, but have failed thus far to effect a unified working program. The relative strength of these opposing forces in the Reichstag was demonstrated on February 26, 1932, when a lack of confidence proposal directed at the Brüning cabinet was rejected by a vote of 289 to 264.

Besides the political parties, there are numerous non-party groupings of equal political significance in an election. German business is centrally federated into spitzen-organizations representing industry, the handicrafts, commerce, trade, banking, and insurance. Of these, the Reichsverband der Deutschen Industrie, the Reichsverband der Deutschen Handwerks, and the Hauptgemeinschaft der Deutschen Einzelhandels, em-

[5] Dr. Georg Kaisenberg, *Die Wahl des Reichspräsidenten* (Carl Heymanns, 1932), supp. chap., p. 4.

[6] *Handbuch für das Deutsche Reich* (1931), pp. 6-8.

bracing practically all of the firms in their respective branches, are of great importance.[7] The Reichslandbund is the largest of the agricultural spitzen-organizations, with 5,600,000 members.[8] The workers are represented by the Allgemeiner Deutscher Gewerkschaftsbund, with 4,866,926 members; the Deutscher Gewerkschaftsbund, with 1,265,478; and the Gewerkschaftsring, with 568,510.[9] The Deutscher Beamtenbund is the most important central federation of public employees, having 1,052,126 members.[10] The Stahlhelm and Reichsbanner as organizations of military men, the Catholic and Protestant groups, women's leagues, and even sport unions have a political significance which tends to give an election campaign in Germany the appearance of a colossal warfare of organized, and not individual, opinions. These organizations are the living forces behind the political parties. The fact that many of them can deliver a predictable vote places a premium upon aligning non-party groups in designing campaign strategy.[11]

Control over presidential elections in Germany is highly centralized. The right to vote in such an election is given to all citizens eligible to vote in Reichstag elections—that is to say, all German citizens twenty years of age or over, with some few exceptions. Electors may vote in any precinct within any one of the thirty-five election districts regardless of their actual place of residence, provided their names appear on the polling list where they intend to vote, or a certificate is presented from their home precinct. The qualifications for president are that the candidate shall be a German citizen and thirty-five years of age.[12] To be elected, the candidate must receive a majority of all the votes cast at the first election; failing that, a plurality of the votes in the second election. Administration of a presidential election is centrally controlled from the election bureau of the federal department of the interior, which prescribes uni-

[7] *Jahrbuch der Berufsverbände im Deutschen Reiche* (1930), p. 43.

[8] *Organisationsbuch des Reichs-Landbundes* (1930), p. 10.

[9] *Jahrbuch der Berufsverbände im Deutschen Reiche* (1930), p. 58.

[10] *Geschäftsbericht des Deutschen Beamtenbundes* (1930), p. 324.

[11] Among the more important non-party organizations officially supporting Hindenburg were: the Arbeitsgemeinschaft vereinigten Vertreter der katholischen Verbände, claiming over 2,000,000 qualified voters; the three workers' federations mentioned above, with a total membership of more than 6,500,000; the Reichsbanner, the Deutsche Offiziersbund, and a large number of the member organizations of the Deutscher Beamtenbund. The Reichslandbund came out for Hitler in the second election. The Stahlhelm, which supported Duesterberg in the first election, took no official stand in the second. The business organizations, such as the Reichsverband der Deutschen Industrie, took no official position in either election.

[12] Hitler became a German citizen shortly before the election by becoming an official of the government of the state of Braunschweig, one of the seventeen German Länder. It is not necessary for the president of Germany to be a native-born citizen.

form ballot forms, indicates how the ballots are to be distributed, voted, counted, and the results forwarded to the central office. The Reichstag determines the dates for the elections, which must be held on Sundays or holidays. Central control is further enhanced by the power of the central and local governments to suppress newspapers and other propaganda considered dangerous to the peace and security of the country; the power to forbid mass meetings and demonstrations; and the power to control the use of the radio, which is practically a government monopoly.[13]

The national and local governments exercise practically no control over campaign finances. There are neither restrictions upon the sources of party income nor limitations upon the amount or character of expenditures, in so far as these do not violate the ordinary civil and criminal codes. The parties are financed in a variety of ways, but of special importance are entrance fees from mass meetings, contributions from affiliated non-party organizations,[14] dues from members,[15] free newspaper publicity, private and corporate financial assistance.[16] In the Reichstag elections of 1930, the trade unions assisted the Social Democrats to the extent of at least a million marks, and there was evidence to show that employers' associations made even greater contributions to other parties. Data concerning such contributions in the presidential elections of 1932 are not available, but it may be presumed that private, corporate, and non-party contributions were of considerable significance. The official costs of the presidential election in 1925, four-fifths of which were borne by the central government, and one-fifth by the local governments, amounted to 4,116,229 marks. What the official costs of the 1932 election will be have not been disclosed, but it is thought that the figures will be about the same.[17] Due to the permanent, integrated, and highly organized character of German economic and political life, it is quite impossible to segregate

[13] There are at present in Germany ten broadcasting companies, with sixteen substations. All of these companies are now members of a central organization really under the control of the Post Office Department, which holds 51 per cent of the stock of the central organization, which in turn controls 55.1 per cent of the capital of the member companies.

[14] According to the financial report of the Allgemeiner Deutscher Gewerkschaftsbund for the year 1930, the total income of all the affiliated trade unions amounted to 29,795,653.97 marks, of which 20,739,629.41 marks were derived from dues. These figures do not, of course, have anything directly to do with campaign finances, but merely suggest the financial strength of one of the largest trade union federations in Germany, which in 1932 actively supported the Social Democratic party and the cause of Hindenburg.

[15] The total income of the Social Democratic party for 1930 was 4,140,004 marks, of which at least 2,000,000 marks were spent for general agitation. *Jahrbuch der Deutschen Sozialdemocratie* (1930), p. 303.

[16] See Richard Lewinsohn, "Das Geld in der Politik" (S. Fischer, 1931), pp. 52-121.

[17] *Frankfurter Zeitung*, April 12, 1932, p. 2.

the total campaign costs of a particular election from the costs of maintaining the fabricated apparatus of party and group machinery which is functioning at all times.

Although any particular campaign is but one link in an endless chain of political strivings, one may take as a starting point of the 1932 campaign the attempt of Chancellor Brüning to prolong Hindenburg's term by parliamentary action and constitutional amendment. This attempt failed, not so much because of the opposition of Hitler and the National Socialists, as because of the opposition of Hugenberg and the German Nationalists. The consent of these two parties was practically necessary in order to obtain the requisite number of votes in the Reichstag. The announcement of this failure precipitated the battle. Even in this maneuver, Chancellor Brüning demonstrated that shrewd political insight which made the presidential campaign, at least strategically, a contest between Brüning and Hitler rather than a battle between Hindenburg and Hitler. If the parties of the Right agreed to the prolongation of Hindenburg's term, it would mean a victory for the Brüning cabinet; if they did not, they would be placed in the unfortunate tactical position of appearing to repudiate their war leader and their presidential candidate of 1925. They chose the latter course, and Brüning at once succeeded in conscripting the services of Hindenburg, thereby forcing Hitler to run against him and the German Nationalists to nominate Duesterberg, in the hope that they could maneuver themselves into a key position after the first election. Events moved rapidly from now on. On February 15, 1932, Hindenburg announced his candidacy, and his multi-party nominating committee was reorganized to carry on the election campaign, with Dr. Duisberg, former president of the Reichsverband der Deutschen Industrie, as its chairman. In view of the varied character of the groups, religiously, politically, and economically, that were supporting the Hindenburg candidacy,[18] emphasis was placed on decentralization of functions. About forty regional committees were organized, expenses were apportioned, and special bureaus were established for winning the women's vote, the farmers' vote, etc. The Social Democrats mobilized the various phases of their movement into a so-called Eiserne Front, which adopted as one of its slogans, "Not for love of Hindenburg, but to defeat Hitler."[19]

[18] The Hindenburg parties were: the German People's party, Agricultural party, German Hannoverian party, People's party, Christian Socialists, Center party, Bavarian People's party, Farmers' League, Economic, Democratic, and Social Democratic parties. "Die Ergebnisse der Reichspräsidentenwahlen am 13. März, 1932," report published by the minister of the Department of the Interior.

[19] The exact quotation is "Also geht hin und werbt für Hindenburg. Und tut ihr es nicht aus Liebe, so tut es aus Hass." Leading editorial, "Von Ebert—zu Hitler?" in the principal organ of the Social Democratic party, *Vorwärts*, February 28, 1932.

In order to win foreign support, and to avoid what seemed an unnecessary and futile resort to force, Hitler proclaimed his devotion to the principle of "legality."[20] At the time of the election, the National Socialists had a thoroughly organized, nation-wide party structure, consisting of about 1,000,000 dues-paying members; about 400,000 so-called "sturm" troops; and about 25,000 party policemen, in addition to those who merely voted with the party. In organizational structure, the Hitler party is modelled very closely upon the German state; Hitler's staff, for example, closely approximating, in its division of labor, the German cabinet. To capitalize the uncertain and critical conditions in Germany; to inspire his organized phalanxes; to envelop his purposes in a veil of vagueness; to arouse racial and economic prejudices; to promise almost anything that would win the support of workers, business men, farmers, youth, women—these were the fundamental principles of the Hitler propaganda.

The strategy of the Communists seems to have consisted solely in an attempt to poll as large a vote as possible without trying to make this battle a decisive one in the long war for communism.

In order to mold the opinion of more than 40,000,000 eligible voters, almost every conceivable type of political propaganda was used—newspapers, posters, literature and pamphlets of all kinds, cartoons, mass-meetings, parades, demonstrations, forecasts, aëroplane displays, newspaper conferences, the radio, moving pictures, house-to-house canvasses, and whispering campaigns. An inclusive description of German election propaganda is a study in itself. Germany possesses, even in normal times, a political apparatus of great propaganda significance. The more or less permanent stratification of the people politically constitutes the background of every German election campaign. Nearly one-half of the 3,353 daily newspapers, to say nothing of weekly, monthly, and quarterly organs, are definitely affiliated with political parties, and most of the others are far from being absolutely impartial.[21] The governmentally monopolized radio is not supposed to be used for party purposes, but on at least three

[20] Fear of communism seems to have been one of the reasons why the government tolerated the Hitler "army" for so long. With this fear removed after the results of the election were known, belief in Hitler's promise gave way to distrust and a desire to cripple the movement. On April 13, 1932, President von Hindenburg issued a special decree abolishing these National Socialist organizations.

[21] A political classification of German newspapers in 1930 gives the following results: German Nationalists, 373 (Hugenburg); Central party, 308; Bavarian People's party, 126; Social Democratic party, 149; National Socialists (1931), 44; German People's party, 42; Economic party, 26; Democratic party, 72. For a complete list, see *Handbuch der Weltpresse* (Carl Duncker, 1931).

occasions it was so used by the Hindenburg forces with telling effect. Brüning's speech before the Reichstag on February 24 was recorded and transmitted to the German people over a national hook-up. A speech of Hindenburg's was similarly prepared and broadcast on two different evenings just before the election. And on April 9, the evening before the final election, Brüning's speech in Königsberg was heard by millions over the radio. Hitler's request for a similar privilege was rejected, and to offset this disadvantage, between the first and second elections, he commandeered an aëroplane and dramatically propagandized the entire country at the rate of three or more speeches a day. All parties made extensive use of political posters, which are a characteristic feature of German street propaganda during a political campaign. All of these posters had to be submitted to boards of censors for approval before they could be distributed. From almost every street corner, cylindrical bill-boards announced in multi-colored formats the slogans of the opposing leaders, and portrayed graphically, pictorially, and in the form of cartoons the aspirations of the several groups.[22] The German mass-meeting is both a source of financial income and a means of propaganda. The Hindenburg forces claimed that they held as many as 100,000 such meetings just before the first election—as many as 10,000 on a single day. Hitler was massing his forces at the rate of 3,000 meetings a day. Communists and German Nationalists could only try to keep up with the procession. The efficiency with which these meetings were organized and the manner in which they were protected by the police was commendable, and is not to be discounted by the fact that sometimes violence occurred. On the whole, in view of the seriousness of the campaign and the issues involved, the degree of order maintained was surprising. Election day, Sunday, March 13, marked the end of the first round of the battle.

Although it was generally supposed that no candidate would obtain a majority of the popular votes in this preliminary election, the result was a surprise in some respects. In the first place, eighty-six per cent of the qualified voters participated in the election, the largest percentage in the history of German elections. This was due in part to the importance of

[22] It may be of interest to cite some of the slogans, taken from a collection of about 100 different posters. "Unsere letzte Hoffnung ist Adolf Hitler"; "Das letzte Stück Brot raubt ihnen der Kapitalismus, wählt Thälmann"; "Schluss jetzt mit Hitlers Volksverhetzung, wählt Hindenburg"; "Entscheidet die Zukunft eurer Kinder"; "Haltet ein mit der Deutschen Selbstzerfleischung, wählt Hindenburg"; "Ein Mann gegen Parteikadaver und Interessenhaufen—Hitler" (forbidden); "Landvolk in Not. Wer hilft? Hitler"; "Mit ihm—Hindenburg"; "Wir nehmen das Schicksal der Nation in die Hände—Hitler wird Reichspräsident"; "Frontsoldaten deutsche Männer und Frauen—Gebt die Antwort"; "Er hält zu Euch, haltet ihm die Treue."

the campaign, the nature of German political party life, the tremendous amount of propaganda, and the convenient system of absentee voting. In the second place, the size of the Hindenburgoote astonished even the Hindenburg supporters. Moreover, the stationary character of the German Nationalist and Communist votes as compared with the 1930 elections to the Reichstag came as a surprise to many, including Hitler, who thought that these parties would make sufficient inroads upon the Hindenburg parties to make it possible for him to secure a plurality. The Hitler vote itself seems to have been approximately what he expected. A careful examination of the results would also suggest that the influx of traditional non-voters helped mightily to swell the Hindenburg figures.[23] Furthermore, an examination of the geographical distribution of the votes not only reveals the surprising strength of Hitler in Prussia, but gives a glimpse of the hidden struggle that was going on between farmers and industrialists, between the north and the south, and between Protestants and Catholics. The fact that the election revealed that the National Socialists are probably the strongest single party in Germany today, and that on the eve of the Prussian Landtag elections, Hindenburg was able to secure a majority of the votes in only four of the seventeen Prussian election districts, darkened an otherwise surprisingly satisfying picture in the eyes of the Brüning coalition.

Between the first and second elections, several things occurred to alter the political situation. The withdrawal of Duesterberg and Winter obviously made available to the major parties a new block of voters. The Stahlhelm announced that in view of the Hindenburg majority, further political agitation on its part, officially, was useless, and gave a free hand to its members to vote as they wished. The Reichslandbund, however, came out officially for Hitler. The Hindenburg forces could not ignore the Hitler strength in Prussia, and at once began a vigorous campaign to maintain their lead. An investigation of the maneuvers and activities of the Hitler "sturm" troops was at once launched by the Prussian government, the exact and complete results of which have not been published. The central government declared a two weeks' political truce over the Easter holidays, during which political meetings and party activities were forbidden. With the end of the political holiday, Brüning and his colleagues launched a new campaign of speeches, posters, mass-meetings, and radio talks. Brüning's oratory during the last few days of the campaign—as he concentrated on the north German cities and rural sections, appealed for unity, extolled Hindenburg, charged the opposition with hampering the conduct of foreign relations, and sought to appease the irate farmers—

[23] This conclusion is well elaborated in an article by Hans Zehrer, "Die Frühjahrsoffensive," in *Die Tat*, April, 1932, pp. 1-14.

revealed a new type of Chancellor that could deal with the masses as well as with individual statesmen.

In the face of predictable defeat, it was necessary for Hitler to arouse his followers to new efforts, and the fact that he was able to do this, and even to increase his number of supporters by about 2,000,000 in the final election, was a feat of political generalship accredited even by his opponents. On April 5, he came out with a party program designed to repel the charges that he had none.[24] More emphasis was laid upon winning the votes of the women, farmers, and ex-soldiers. While complete figures are not at hand showing the nature of women's participation in the first election, of the women who voted in Bremen, 68 per cent were for Hindenburg, while only 52 per cent of the men who voted so cast their votes. In Köln, the percentages were 67.5 and 53.9, respectively. A poster depicting the family life of Hitler from his youth to the present, and his dramatic "stumping" of the country in an aëroplane, were the striking features of a propaganda battle of charges of falsehood and countercharges, mass-meetings, demonstrations, newspaper articles emphasizing the need for getting out the vote, and the intermittent forbidding of various newspapers. Some violence occurred, but it could not fairly be said to have been extraordinary.

The results of the final election, which gave Hindenburg not only a plurality but an absolute majority, could be looked upon with some degree of satisfaction by both of the major contending groups. The Hindenburg group could point with pride to their "absolute majority," and the Hitler forces could find at least a modicum of hope in the fact that they had not only maintained their ranks intact but had increased their numbers to 13,000,000, in comparison with about 11,000,000 obtained in the first election. The great mystery of the second election was the Communist vote. Whether their loss of 1,000,000 votes signified that all of those who stayed away from the polls were Communists, or whether they voted for Hitler, as some of them certainly did, or whether their fear of Hitlerism overcame some of their rather futile devotion to Thälmann, and many of them supported Hindenburg—no one can say. Undoubtedly a considerable number of Duesterberg's supporters voted for Hitler, as indicated by the official action of the Reichslandbund, but it is not certain that all of them did so.[25]

[24] On April 5, 1932, Hitler published his "program," the section headings of which were: 1. Citizens and workers must become Germans; 2. The authority of leadership must take the place of the parliamentary system; 3. Saving the farmer means saving the German nation; 4. Down with Bolshevism; 5. Business must serve the people; 6. Protect the workingman; 7. The family is the bed-rock of the state; 8. State morality is the basis of public welfare. *Völkischer Beobachter*, April 5, 1932, p. 2.

[25] How impossible it is to determine exactly how the votes lost to the Communists, German Nationalists, and Winter were really distributed is shown clearly in an article "Die Stimmen-Verschiebung" in *Das Tagebuch*, April 16, 1932.

The statistical results of the election are given below, not because the results of this contest mark the end of political strivings in Germany, but rather because they furnish the starting point for a consideration of the Prussian Landtag elections, and possibly the turning point in the history of revolutionary party struggles in Germany and in the history of the "peaceful war" between Hitler fascism and socialistic republicanism.

GERMAN PRESIDENTIAL ELECTION, 1932

Candidate	*Election March 13, 1932*		*Election April 10, 1932*	
	Valid votes	*Per cent of total*	*Valid votes*	*Per cent of total*
Duesterberg	2,557,590	6.8	withdrew	
von Hindenburg	18,650,730	49.6	19,359,642	53.0
Hitler	11,339,285	30.1	13,417,460	36.8
Thälmann	4,983,197	13.2	3,706,388	10.2
Winter	111,432	0.3	withdrew	
distributed	4,881		8,204	
per cent of electorate		86.2		83.2

From a survey of the presidential election as a whole, it seems evident (1) that the majority of the German people, regardless of some differences, are not willing to scrap the Weimar constitution and set up a Hitler dictatorship; (2) that the National Socialists are one of the largest, if not the largest, single party in Germany today; (3) that communism is not the formidable danger in Germany that many supposed; but (4) that orderly parliamentary government in Germany is problematical unless the Hitler program is modified so as to permit compromise and coalition with other parties, and the program of the Social Democrats so broadened as to permit them to become an opposition party if necessary. With the return of better economic conditions, a reinstatement of normal parliamentary functioning is conceivable. Until then, in view of the stringent political differences between German Socialism and National Socialism, a modified form of administrative dictatorship either of the Right or the Left seems inevitable. The presidential election has served to clear the political atmosphere somewhat, has dissipated many doubts and fears, and has given reassurance to many that Germany is determined to make ultimate rule by public opinion a fundamental feature of state life. It is not an easy task that faces the newly reëlected President von Hindenburg; for upon him falls responsibility for balancing the interests of two great political movements, bitterly opposed to one another, and for doing this in such a way as to protect the interests of the people as a whole.

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Relations of the United States with the Council of the League of Nations.* The Council of the League of Nations being commonly considered in the United States as the League's supreme organ, as the body which represents *par excellence* the League system and spirit, it would seem obvious that there should have been the greater hesitation, in view of our non-membership in the League and our official anti-League declarations, to have direct relations with it. Nevertheless, the record reveals that it has been impossible for the United States government to ignore the Council consistently, and that, as a matter of fact, official relationships of one kind or another have been occasionally entered into with that body also. These relationships have, in the first place, taken the form of direct correspondence between the Council and the United States, which has been carried on at intermittent periods and on various subjects, but which has involved every Administration, and which by this time amounts to a considerable volume.[1] Through such correspondence, points of view have been stated and sometimes reconciled, common policies to some extent determined, and a fair degree of coöperation undertaken.

But more significant is the fact that the United States has also had some actual representation on committees of the Council, and even on the Council itself. The first opportunity for such direct participation came in 1921, during the consideration of the mandates. When the Council, in February of that year, was about to make the final arrangements for instituting the mandates system as required by the Covenant, both Ambassador Wallace and Secretary Colby wrote strong letters, under date of February 21, insisting on the right of the United States to a voice and protesting against any Council action without its consent. The president of the Council (then M. Da Cunha of Brazil) promptly replied, to Ambassador Wallace on February 22 and to Secretary Colby on March 1, inviting the United States to sit with the Council for the purpose of a discussion of mandates, instead of engaging only in formal correspondence. "The Council invites the United States," he wrote, "to take part in the discussions at its forthcoming meeting, when the final

* This article is in part the result of observations and investigations in Geneva under a grant from the Social Science Research Council, whose aid is gratefully acknowledged. The relations of the United States with the Assembly of the League were dealt with in an earlier article in this REVIEW (February, 1932, pp. 98-112).

[1] By Secretary Colby with respect to the mandates in 1920-21; by Secretary Hughes with respect to the traffic in arms in 1922-24; by Secretary Kellogg with respect to the World Court in 1926 and 1929, and the Opium Convention in 1928; by Secretary Stimson with respect to the Liberian and Manchurian questions in 1931; and probably other occasions.

decisions as to the 'A' and 'B' mandates will, it is hoped, be taken. A problem so intricate and involved as that of mandates can hardly be handled by the interchange of formal notes. It can only be satisfactorily solved by personal contact and by direct exchange of opinion. Not only do such direct negotiations, which correspond to the true spirit of the League, effect an increase of freedom, flexibility, and speed, but they create a spirit of mutual good-will and coöperation among people meeting around the same table.''[2]

The time was too short for the Wilson Administration, before it expired on March 4, to accept this invitation and send a representative, as it would presumably have been quite willing to do. The Harding-Hughes Administration not only refused to send a representative to the Council, but did not even reply to the Council's communication. Secretary Hughes also insisted on negotiating these mandates questions with each of the Allied Powers, all of whom were, of course, represented on the Council and obliged to report back to the Council and act through the Council before the results of such negotiations could become effective. Much of the delay in the final establishment of the mandates system was therefore due clearly to the unwillingness of Secretary Hughes to be represented on the Council for the purpose of discussing these mandates, or even to carry on the correspondence begun by Secretary Colby.[3] This is the more difficult to explain in view of the fact that the results of these delays were, on the whole, merely to affirm and approve what the Council had already agreed to.[4]

In view of this early attitude of the Harding-Hughes Administration toward the Council, it is all the more interesting to note that it was this same Harding-Hughes Administration which, only two years later, sent the first American representative to a meeting of the Council. American relief organizations had contributed heavily to the work of caring for the vast number of refugees left by the war, and had particularly borne

[2] Entire correspondence in *Council Minutes*, XII, 68-76; the Colby-Da Cunha letters also in *Official Journal*, II, 137-143 (Mar.-Apr., 1921).

[3] Cf. report of Viscount Ishii to Council, July 18, 1922. *Official Journal*, II, 847 (Aug., 1922).

[4] ''The new draft mandates resulting from the conversations with the government of the United States differ only very slightly from the text which we began to discuss in February, 1921. . . . The majority of the changes are purely verbal.'' Lord Balfour to Council, July 18, 1922. *Ibid.*, 847. Treaties have now been negotiated and ratified by the United States with respect to nine of the mandates, each of which incorporates verbatim the mandates agreement previously entered into between the Council and the mandatory Power. It ought also to be noted that Colonel House sat officially with the Supreme Council's commission on mandates in the summer of 1919, and helped formulate the tentative drafts of mandates agreements for all three classes of mandates. Miller, *Diary*, XX, 348-349, 383-389.

the brunt of the relief of the Greek refugees in 1922-23. By the summer of 1923, these relief organizations had withdrawn their help until some more constructive scheme should have been devised for dealing with the whole problem, and consequently a proposal had been made that the League should arrange an international loan. Somehow or other, the United States government became interested in the matter and, without any invitation from the Council, sent Colonel James A. Logan, then the American representative on the Reparations Commission, and Mr. Fred C. Dolbeare, of the American delegation to the Lausanne Conference, to Geneva to take part in the arrangements. The matter of a loan was considered first by a sub-committee of the League's Financial Committee, along with which Mr. Dolbeare apparently participated. It was considered also later by the Council itself in a private meeting, attended by Colonel Logan, as a result of which a protocol for a loan was worked out, approved by the Council, and made effective.[5]

Five years later (in 1928), the Council, for the first time since its rebuff in 1921, invited direct American participation. The Opium Convention of 1925 provided for a permanent central board, to be composed of eight technical experts and to carry on the continuing system of control of the opium traffic. It was further provided in the convention that this board should be appointed by the Council, but with the United States (also Germany, then not yet a member of the League) entitled "to nominate one person to participate in those appointments."[6] As soon as the convention became effective, in 1928, the Council authorized an invitation to the United States, not only to participate with it in the selection of the Opium Board, but also "to take full part in the settlement of the procedure" for making the appointments.[7] This would therefore have permitted the United States a seat on the Council, on a completely equal status with other members, during two successive sessions, first for determining the procedure of selection and presumably for making nominations, and, at a later session, for the definitive selection. The

[5] Statements by Dr. Nansen, Lord Cecil, and the President of the Council, July 5, 1923. *Official Journal*, IV, 903-904, 1014 (Aug., 1923); Manley O. Hudson, in *World Peace Foundation Pamphlets*, VII, no. 1 (1924), p. 19. The Council also set up a small committee, consisting of Dr. Nansen, a representative of the Greek government, and a representative of the American relief organizations, to arrange for temporary relief until the loan should become effective; and later appointed an American, former Ambassador Henry Morgenthau, as chairman of the Greek Refugee Settlement Commission, set up to administer relief under the terms of the loan. Morgenthau was eventually succeeded by two other Americans in turn, Charles P. Howland and Charles Eddy.

[6] Art. 19. Text of convention in *Official Journal* VI, 689-715 (May, 1925).

[7] This was done at its session of Aug. 31, 1928. *Ibid.*, IX, 1441-1442 (Oct., 1928).

invitation was sent in this form on September 5, 1928, and on October 1, Secretary Kellogg replied, through Minister Wilson at Berne, not only declining the opportunity to sit with the Council for this purpose, but also severely criticizing the Geneva Convention of 1925 as on the whole inferior to the older Hague Convention of 1912.[8]

The Council in this instance was sufficiently aroused by the attitude of the United States[9] to make a sharp reply, in which it answered in detail the specific criticisms made by the Secretary of State, insisted that the Geneva Convention represented a maximum of progress agreed upon by forty-one Powers, pointed out that the Advisory Committee (on which the United States had been represented since 1923) had in its reports unanimously urged ratification and enforcement of the convention as "the most valuable single step which can at present be taken to combat the illicit traffic," and quite plainly, though politely, rebuked the United States for its unwillingness to coöperate fully and freely.[10] In spite of its strong feeling that the Washington government had gone out of its way to criticize and hinder the League in this matter, the Council proceeded to elect an American (Mr. Herbert L. May) to the Opium Board,[11] and something like cordial working relations on a limited scale seem to have been restored.

The following year (1929) came the reports about slavery in Liberia and the appointment in September of an international commission of inquiry, consisting of one Liberian appointed by the government of Liberia, one American appointed by the government of the United States, and a third member appointed by the Council of the League.[12] This commission was in no real sense a League commission, but rather a commission created and its composition determined at the request of the

[8] Text of letter in *ibid.*, 1973 (Dec., 1928). Secretary Kellogg did, however, offer to furnish information to the Opium Board, and this has since been done.

[9] It may be recalled that the Opium Conference for drafting this convention had been particularly urged by the United States in the Fourth Assembly (1923), but that the American delegates had walked out before the Conference completed its work. The Opium Board was one of Porter's ideas.

[10] The letter was drafted and sent particularly on the insistence of Mr. Dandurand of Canada, the Council *rapporteur* on this subject. Sir Austen Chamberlain had misgivings as to the necessity or expediency of the reply, but felt that Mr. Dandurand must be "better informed upon feeling at Washington than himself," and therefore agreed to it. *Official Journal*, X, 54-55 (Jan., 1929).

[11] It is well understood, however, that this was done only after assurances had been received that the American government would not object to having an American on the board.

[12] The members so appointed were Sir Arthur Barclay (former president of Liberia), Dr. Charles Johnson (professor at Fisk University), and Dr. Cuthbert Christy (British), representing the Council.

Liberian government. The readiness of the United States to participate in its work is not, therefore, to be taken as an example of participation in the activities of the League, although it did indicate a readiness to be associated with the League Council in a matter in which its own interest was, for historical and sentimental reasons, very great. The report of the commission was, however, submitted to the Council of the League, as well as to the governments of Liberia and the United States;[13] and thereupon began a series of events that quickly brought the United States into the closest relations with the Council.

The shocking conditions as to slavery in Liberia revealed by the report caused the American government to make the most indignant representations to Liberia and to urge emphatically the institution of "a comprehensive system of reforms." Copies of these notes were sent also by the Secretary of State to the Secretary-General of the League for transmission to the other signatories of the Slavery Convention of 1926.[14] Liberia accepted the recommendations of the report, and, apparently fearful of financial control by the United States alone, asked for such financial and administrative assistance from the League as would enable it to carry out the necessary reforms in its internal administration.[15] The Council thereupon decided, on January 24, 1931, to appoint a small committee of its own members to examine the problem thus raised, this Council committee to be assisted by the technical organs of the League and by other experts. The Council decided further, "in view of the special interest which has been shown by the United States of America in the execution by Liberia of the reforms proposed by the commission of inquiry," to authorize an invitation to the United States "to take such

[13] To Liberia, Sept. 8, 1930, to the United States, Oct. 21, and to the Council, Dec. 15; a summary of the Commission's findings was submitted to the Council Oct. 6. The whole series of events is well summarized in report of M. Zaleski to Council, Jan. 22, 1931. *Official Journal*, XII, 186-190 (Feb. 1931).

[14] Note of Nov. 5, and memorandum of Nov. 17, 1930, from the Secretary of State to the government of Liberia, communicated to the Secretary-General, Dec. 23, 1930. See League of Nations Doc. C. L. 3, 1931, VI, printed in *ibid.*, 467-469.

[15] "My Government has made every effort to prove its good will, stating that it would be ready to do more as soon as the state of its finances permits. It requested a foreign government [the United States] to appoint two commissioners to assist in reforming the internal administration of the country. These commissioners were to take up their duties immediately. The foreign government in question, the government of a very wealthy country, did not reply to my government's request, or rather, it insisted on the latter accepting *to the letter* all the recommendations and suggestions of the Commission and that it would appoint not five [*sic*] commissioners but a far greater number. The government to which I refer is, however, fully aware of the financial situation of my country, I do not know by what right." Statement of Mr. Sottile (Liberia) to Council, Jan. 22, 1931; cf. his letters to the Secretary-General, Jan. 9 and 23, 1931. *Ibid.*, 190-192, 466-467, 470.

part in its [the Council committee's] meetings as that government may deem appropriate."[16]

The invitation was sent by the Secretary-General on January 30, and was accepted by Secretary Stimson on February 3.[17] Mr. Samual Reber, Jr., then the American chargé d'affaires in Liberia, was named as the representative of the United States, and was instructed to proceed at once from Monrovia to Geneva. He sat on an equal status with the members of the Council thus constituted into a special committee of inquiry,[18] at meetings in London, February 27 to March 3, 1931, and again in Geneva, January 25 to February 1, 1932, these meetings being presided over first by Mr. Arthur Henderson (then British foreign secretary) and later by Lord Robert Cecil. At the London meetings, the whole problem was carefully discussed and a committee of experts was appointed to examine the situation in Liberia on the spot; at the Geneva meetings, the report of these experts was examined and their recommendations approved in principle.[19] Preliminary reports were made to the Council, and, at the urgent request of Liberia, final action was postponed to a later session in May (1932), to be held in connection with the regular session of the Council itself.

The committee of experts recommended, among other things, a system of far-reaching administrative and financial assistance to Liberia, under League auspices, to be carried out through advisers appointed by the

[16] *Ibid.*, 219.

[17] Text of Secretary Stimson's telegram in *ibid.*, 582 (Mar., 1931).

[18] These were the representatives of Great Britain, France, Germany, Italy, Spain, Poland, Venezuela, and Liberia (Liberia being for this question a temporary member of the Council under Art. 4 of the Covenant). Venezuela, having retired from the Council, was, on Sept. 28, 1931, replaced by Panama.

[19] These experts were: one in general administration (M. Brunot, French), one in finance (M. Ligthart, Dutch), and one in health (Dr. Mackenzie, British, of the League's Health Section). Their report was completed during the summer of 1931, and, although still confidential, its general character and conclusions were revealed after the above was written. It recommended, in particular, a system of far-reaching administrative and financial assistance to Liberia, under League auspices, to be carried out through advisers appointed by the League, and amounting virtually to temporary control of Liberia by the League. These recommendations were approved in principle by the Council committee at a second series of meetings in Geneva, Jan. 25-Feb. 1, 1932, but final action was, at the urgent request of Liberia, postponed until May (1932), when the committee was to meet in connection with the regular session of the Council itself. Mr. Reber again attended all these meetings, expressly approved the plan of the experts on behalf of the United States, and promised to continue his collaboration with the Council committee until its work should be completed. See Preliminary Reports of the Committee of the Council, submitted to the Council by M. Zaleski (Poland), May 21, 1931, and Feb. 4, 1932. *Official Journal*, XII, 1119-1122, 1448-1450 (July, 1931), and Doc. C. 170, 1932, XII. (Feb. 4, 1932).

League, and amounting virtually to temporary control of Liberia by the League. Mr. Reber not only attended the meetings of the Council committee at which these recommendations were discussed and tentatively approved, but himself expressly approved the plan, on behalf of the United States, and indicated that he expected to continue his collaboration with the Council committee until its work should be completed.[19a] In this work of exposing the conditions with respect to slavery in Liberia and of instituting the necessary financial and administrative reforms to enable that country to deal effectively with the problem, the relations between the United States and the Council have therefore been, and still are, so close that M. Zumeta (Venezuela) spoke most aptly when he referred, in Council meetings, to "the efforts of the Council, to which the United States were bound by strong humanitarian and historical ties, to help the Liberian Republic. . . ."

But the most dramatic and most complete coöperation of the United States with the Council came in connection with the recent dispute between Japan and China. The first clash between Japanese and Chinese forces occurred at Mukden during the night of September 18, 1931; the matter was brought to the attention of the Council the next day by both the Japanese and Chinese representatives; and on September 21 the Chinese representative, Dr. Sze, officially appealed the case to the Council for settlement under Article 11 of the Covenant.[20] Henceforth the matter was within the jurisdiction of the League, and was considered by the Council during four successive periods.[21]

Meanwhile, the Hoover Administration had also been watching the events in Manchuria, being obviously interested, not only because of the general threat to world peace that would result from a continuation of the conflict, but also because of the traditional interest of the United

[19a] See *Information Section Communiqué*, No. 5465 (Jan. 30, 1932), and Report to the Council, Feb. 4, 1932, *op. cit.*

[20] This article authorizes the League to "take any action that may be deemed wise and effectual to safeguard the peace of nations." The broad powers thus conferred are unfortunately limited by the requirement of unanimity in the Council, even including the disputants. It may be noted, in this connection, that the Twelfth Assembly (1931) adopted and opened for signature the General Convention to Improve the Means of Preventing War, which will, when ratified, largely correct this defect and strengthen the hand of the Council under Art. 11. See report of Third Committee on this convention (Doc. A. 77. 1931. IX).

[21] Sept. 19-30 (other business also being transacted), Oct. 13-24, Nov. 16-Dec. 10, Jan. 25-Feb. 29 (other business also). These several phases of the question are conveniently described in a day-by-day summary by the Geneva Research Committee, in "The League and Manchuria," *Geneva Special Studies*, II, nos. 10-12 (Oct., Nov., Dec., 1931), and "The League and Shanghai," *ibid.*, III, no. 3 (Mar., 1932). The writer has relied heavily upon his personal observations and upon the press reports.

States in the Far East, and even more particularly because of its peculiarly intimate relationship to the Nine-Power Treaty of 1922 for the protection of China, and the Briand-Kellogg Pact for the outlawry of war, either or both of which might become involved. There was grave danger, in view of these special interests, that the United States might take action independently of the League, and that failure to coördinate their efforts might actually impede a settlement.[22] Consequently, the Council, on September 22, on the proposal of Lord Cecil, unanimously authorized its president (then M. Lerroux, the Spanish foreign minister) to forward to the government of the United States all the Council minutes and all the documents relating to the question of the dispute—this in order, as Lord Cecil put it, that "the United States will then be fully informed of what we are doing and will be able to take any action it may think right in connection with the matter."[23]

This action of the Council received an unexpectedly sympathetic response from the American government, which indicated that on this occasion its relationship to the League was not to be confined to the mere receipt and acknowledgment of League documents. Mr. Hugh R. Wilson, the American minister to Switzerland, had been conspicuous among the auditors at these first Council meetings, and had made frequent visits to the office of the Secretary-General. On the afternoon of September 22, after the Council had taken the action above noted, he rather suddenly left the meeting of the Third Committee of the Assembly, which he had just been authorized to attend, went upstairs for a personal conference with the Secretary-General, and then had a telephone conversation with the State Department in Washington.[24] He is also reported to have had close contact with the special Council Committee of Five which was set up to work out the details of a settlement, the situation by that time being rather aptly described as follows: "The Council sub-committee, composed of Lord Cecil, Britain; René Massigli, France; Count

[22] This had actually happened in the case of the Bolivia-Paraguay dispute in 1928, so that Briand, as acting president of the Council, finally summoned the American and Argentinian chargés d'affaires in Paris to a personal conference and handed each an *aide-mémoire*, sharply reminding them that it was essential "that the efforts of all those at present engaged in securing a settlement of the dispute by pacific means should be completely coördinated," and asking them to inform him of the measures their governments proposed to take. The Council had already communicated the League documents to these governments. The disputing countries accepted the mediation of the Pan-American Conference the next day, and no further complications ensued. *Official Journal*, X, 73, 266-268 (Feb., 1929).

[23] *Council Minutes*, 65th Session, 2nd Meeting, p. 6; *ibid.*, 3rd Meeting, p. 2. The action of the Council in the Bolivia-Paraguay dispute was an important precedent.

[24] *Geneva Special Studies*, II, no. 10, pp. 15, 18; *Chicago Tribune* (Paris ed.) and *N. Y. Times* (Clarence K. Streit corr.), Sept. 24, 1931, p. 4, c. 6.

von Bernstorff, Germany; and Dino Grandi, Italy [and the president of the Council, Alexandre Lerroux, Spain], was immediately convoked, occupying one room in the Secretariat, and Wilson sat in an anti-room while the Japanese delegate Yoshizawa and the Chinese delegate Alfred Sze were both placed in different rooms, like a lot of strange bulldogs. Sir Eric Drummond paced back and forth among five different rooms, acquainting various officials with the progress of the discussions. Thus Wilson maintained the American position of being of the League but not in it.''[25]

In addition to the informal collaboration thus established at once between the United States and the Council, Secretary Stimson, on September 24, sent a formal communication to the president of the Council, acknowledging receipt of the Council resolution of September 22, and giving assurance ''that the government of the United States is in wholehearted sympathy with the attitude of the League of Nations as expressed in the Council's resolution and will despatch to Japan and China notes along similar lines.'' He also informed the Council that he had already urged upon the disputing parties the cessation of hostilities and the withdrawal of troops, the two points included in that Council resolution.[26]

This expression of confidence in the League and of a readiness to act in concurrence with it seemed to many to be a hint that the Hoover Administration at that time contemplated even closer collaboration. There were those in Geneva who desired to seize upon this presumed hint, and who therefore proposed that the Council promptly invite the United States to sit with it during its discussions of the Manchurian question. The Council, earnestly desiring this more complete participation but no doubt fearing a repetition of the earlier rebuffs to such invitations, framed a reply that was somewhat ambiguous and therefore left the way open for such collaboration as the American government was prepared to give. This note, sent to Secretary Stimson on the same day (September 24) by the president of the Council (M. Lerroux), expressed the warm appreciation of the Council for the friendly and sympathetic attitude of the United States toward the League's efforts, stated that the Council had ''no preconceived method'' for solving the difficulties, indicated that it would continue to keep the United States informed of its actions, and expressed the hope ''that that government will also be disposed to communicate with it.'' ''The Council feels confident,'' M. Lerroux concluded, ''that irrespective of any individual

[25] Henry Wales, in *Chicago Tribune* (Paris ed.), Sept. 25, 1931.

[26] Text of Stimson note in Doc. C. 597, M. 239, 1931, VII; of Council resolution in *Council Minutes*, 65th Session, 3rd Meeting, p. 2.

effort which any government may deem it desirable to make, it is by the continuance of common endeavour that a successful result is most likely to be achieved. The efforts which are now being made here will be continued by the Council in such form as circumstances may require."[27]

Secretary Stimson responded to this note the next day (September 25) by sending directly to the Council copies of the identic note which he had handed to the representatives of Japan and China in Washington.[28] While this identic note somewhat disappointed the most ardent American pro-Leaguers, in that it made no specific reference to the League obligations of the disputants nor to the coöperation of the United States with the Council, it did appear from these developments that the State Department was at least now prepared to act (as, unfortunately, it had not always acted) in accordance with the statement of Secretary Kellogg some years ago, when he wrote to the Secretary-General: "The government of the United States desires to avoid, in so far as may be possible, any proposal which would interfere with or embarrass the work of the Council of the League of Nations, doubtless often perplexing and difficult. . . ."[29] In fact, it appeared to some of the most responsible observers of these developments that "the American government was with the Council in fact if not in form."

There can be no doubt that the United States greatly influenced the Council's actions at this early stage of the dispute. China had particularly requested a neutral commission of inquiry to determine the facts in controversy, and offered to accept the conclusions from such inquiry. Members of the Council were sympathetic with that request, since it was so definitely in accord with both the spirit and practice of the League. It had become known at Geneva, however, that the American government for some reason felt that such a neutral commission would be unwise in view of the Japanese opposition,[30] and consequently the Council adopted a relatively mild resolution on September 30, which noted the respective

[27] Text in *Information Section Communiqué No. 5342* (Sept. 24, 1931). In view of the later objections of the Japanese to American participation in the Council, it may be noted that the Japanese representative, Yoshizawa, agreed to this note. He is reported to have objected only to the first wording, "general coöperation," accepting instead the words, "common endeavour." *N. Y. Times* (Clarence K. Streit corr.), Sept. 25, 1931, p. 3, c. 5.

[28] Minister Wilson to president of Council, Sept. 25, 1931. Doc. C. 610, M. 247, 1931, VII.

[29] Secretary Kellogg to the Secretary-General, Feb. 19, 1929, in respect to the World Court. *Official Journal*, X, 780 (Apr., 1929).

[30] The reason for this was said to be a desire to save the face of Baron Shidehara, the Japanese foreign minister, known as a moderate and a liberal, with whom the Washington government was on the best of terms. His hand was said to be forced in this matter by the Japanese militarists.

Japanese and Chinese declarations that the troops would be withdrawn "as rapidly as possible" and that safety of lives and property would be guaranteed, and requested both parties "to continue and speedily complete the execution" of these undertakings and meanwhile to keep the Council informed of developments.[31] The rôle of the American government in this phase of the dispute was, as one of the most acute and critical observers of the League in Geneva put it, "to save, as much as possible, the pride of the Japanese government, with a view to facilitating its withdrawal and not risking the provocation of a grave political crisis in Tokyo."[32]

With the failure of this first effort to bring about either withdrawal of Japanese troops or a cessation of hostilities, the State Department followed the lead of the members of the Council in sending official observers to Manchuria,[33] and renewed the previous assurances of its readiness to coöperate with the Council, in a note sent to the Secretary-General on October 9, which was interpreted in Washington as meaning that "the United States for the first time was joining with the League in measures to stop international hostilities," and in Geneva as "a most important contribution to next Tuesday's difficult Council debates." In this note, Secretary Stimson referred to "the well-tried machinery" provided by the League Covenant for handling such questions, and urged that the League "in no way relax its vigilance and in no way fail to assert all the pressure and authority in its competence." He stated his belief in a continuing coöperation of the United States "along the lines we have followed ever since the trouble first commenced and which fortunately found in session both the Assembly and the Council," and concluded with assurances that the American government, "acting independently through diplomatic channels, will try to reinforce League ac-

[31] Text of resolution in *Council Minutes*, 65th Session, 7th Meeting, p. 4.

[32] William Martin, in *Journal de Genève*, Sept. 29 1931 (translation mine). Practically all responsible opinion in Geneva was identical with that of M. Martin. Cf. Geneva Research Information Committee, *op. cit.*, no. 10, p. 29; Henry Wales in *Chicago Tribune* (Paris ed.), Sept. 27, 1931; Clarence K. Streit, in *N. Y. Times*, Sept. 26, 1931, p. 9, c. 4. Similarly, it was reported from Washington that the abandonment of the commission of inquiry and the presumption of direct negotiation "were accepted [by the State Department] as pointing to an agreement on policy with this country." *N. Y. Times*, Sept. 26, 1931, p. 9, c. 3; cf. *Journal de Genève* (ed. du matin), Nov. 8, 1931; *Japan Weekly Chronicle*, No. 1552 (Oct. 1, 1923), pp. 412, 414, 416.

[33] Note from Prentiss B. Gilbert to the Secretary-General, Oct. 11, 1931, announcing that such observers had been sent on Oct. 6. Doc. C. 687, M. 293, 1931, VII. It seemed to be understood in Tokyo, however, that "the American mission seeks only information and is not a forerunner of intervention or mediation, and that it also differs completely from the proposed joint investigation commission of the League of Nations." *N. Y. Times* (Hugh Byas corr.), Oct. 9, 1931, p. 5, c. 3.

tion and will make it evident that it has not lost interest in the question and is not oblivious to the obligations which Japan and China have assumed to other signatories of the Pact of Paris as well as the Nine-Power Pact, if a time should come when it would seem advisable that those obligations be brought forward."[34]

This strong expression of confidence in the League and its machinery was followed the next day by open intimations that a representative would be sent to sit with the Council when that body reconvened to consider the dispute,[35] and on the day before the Council actually met positive announcements were made that Mr. Prentiss B. Gilbert, the American consul and League observer in Geneva, had been selected for that purpose and had already been given his instructions.[36] When the Council reconvened on October 13, and the question arose of inviting the United States to the seat it had publicly offered to fill, there were, for the first time in the history of the League, serious objections to its participation, as a non-member, in the work of a League organ. The Japanese representative, M. Yoshizawa, not only objected, on behalf of his government, to such an invitation to the United States, but also made the point that unanimity was required under Article II, and that therefore no invitation could issue without his consent. He wrote formal letters of protest, submitted long memoranda,[37] argued the matter orally in both private and public session, and urged finally that a special committee of jurists be set up to examine into the question.[38] He forced the Council to spend three days discussing this matter of an invitation to the

[34] Full text in *N. Y. Times*, Oct. 12, 1931, p. 1, c. 8; also published in Geneva on same date as Doc. C. 700, M. 308, 1931, VII, and printed in *Official Journal*, XII, 2485 (Dec., 1931). The White Paper issued by the State Department contains a memorandum to the Council, dated Oct. 5, which is evidently the memorandum delivered to the Secretary-General on Oct. 9 and dated Oct. 12. It seems to have been carefully edited before delivery to the Secretary-General, there being a number of verbal and grammatical changes, and the last sentence being omitted altogether, as follows: "By this course we avoid any danger of embarrassing the League in the course to which it is now committed." See *Conditions in Manchuria* (S. Doc. No. 55, 72 Cong., 1 Sess.), p. 14.

[35] This seems to have been first intimated at Washington on Oct. 10, three days before the Council convened. *N. Y. Times*, Oct. 11, 1931, Sec. 1, p. 1, c. 6; p. 19, cc. 6-7.

[36] *Ibid.*, Oct. 13, 1931, p. 1, c. 7 (Washington despatch by Richard V. Oulahan).

[37] Letters from Yoshizawa to Briand, Oct. 15 and 17; and memorandum and declaration to the Council, Oct. 15 and 16. These are found in *Council Minutes*, 65th Session, 10th Meeting, pp. 2-4; *ibid.*, 11th Meeting, p. 2; and Doc. C. 729, M. 334, 1931, VII.

[38] This proposal was supported by the German representative (Von Mutius), which action one correspondent said "provided the comedy element in a tense afternoon." *Chicago Tribune* (Paris ed.), Oct. 16, 1931. Yoshizawa himself, however, refused, when pressed, to agree to abide by the conclusions of such jurists.

United States,[39] while the American representative, already chosen, was in Geneva waiting to take his seat.

Although it was apparent that the Japanese feared the political effect upon their case of such American participation and resented the fact that a special case seemed to be made against them in this respect, their objections in the Council were, of course, purely juridical in character and entirely properly expressed. Their arguments may be summed up about as follows: (1) that Article 4 of the Covenant, which provides for special membership in the Council for states particularly interested in a question under discussion, was intended to apply only to members of the League, and that even in the case of such member states, a very direct interest in the question must be shown; (2) that cases arising under Article II were by the Covenant made a matter of concern to all members of the League, and that therefore no special interest, in the sense of this Article, could be attributed to any single state; (3) that if the United States were to be invited because of the Kellogg Pact, then all the other signatories of that Pact not already members of the Council had an equal interest in the dispute and ought likewise to be invited; (4) that if the United States were included now, the question would arise whether it would not have to be included for all future cases; (5) that these were all questions of substance, involving important interpretations of the Covenant, and could therefore be settled only by unanimous vote of the Council, and ought to be so settled only after study by a special committee of jurists.

To these arguments, the other members of the Council, particularly Briand, Lord Reading, and Madariaga, replied: (1) that the provisions of the Covenant to which Yoshizawa referred had no bearing upon this case, since it was not intended to invite the United States to sit as an actual member of the Council, but only in a limited and advisory capacity; (2) that, since the Kellogg Pact had come under consideration in connection with the dispute and the United States was, after all, "one of the proponents," and "foremost among the signatories" of that Pact,[40] it might well "be regarded as being especially interested in ensuring a settlement of the present dispute by pacific means;" (3) that since the question was not whether to communicate with the United States (this had already been settled with Japanese approval), but merely whether

[39] Oct. 14-16; one private session of 3 hours, one public session of 3 hours, several sessions of the Twelve (the whole Council except the Japanese and Chinese representatives) and of the Five (four Great Powers and Spain), and many conferences between Briand, Yoshizawa, other members of the Council, and Mr. Gilbert.

[40] This was a neat escape from the logical necessity of inviting at least the other important signatories, such as Russia, whom the Poles and others on the Council did not want, the other "proponent" being France, already a member.

that communication should be "by correspondence or by word of mouth," it was clearly a question of procedure and could therefore be decided by majority vote.

In spite of these arguments, concurred in by all of the other members of the Council, and in spite of personal appeals made both in private and public, the Japanese representative refused to yield. The Council therefore over-rode his objections, declared the question one of procedure, and decided (by vote of 13 to 1),[41] first in private session on October 15 and then in public session the next day, to "invite the government of the United States to be associated with our efforts by sending a representative to sit at the Council table so as to be in a position to express an opinion as to how, either in view of the present situation or of its future development, effect can best be given to the provisions of the [Kellogg] Pact."[42] The final decision was taken about noon on October 16; the acceptance of the United States was received during the course of the afternoon;[43] and at a late afternoon session on the same day, Mr. Gilbert took his seat with the Council.[44] He was warmly welcomed by members of the Council, and particularly by Briand as president, who referred to his presence as a public manifestation of "the spirit of good understanding and loyal coöperation" between the United States and the League in this affair, as "the natural and practical outcome of the close *de facto* solidarity which has existed harmoniously between us for a month past to the satisfaction of the two parties concerned" as a "closer coöperation" which the nations of the world "will not view without emotion" and whose "symbolic significance" they would fully realize. Mr. Gilbert participated henceforth in both the public and private sessions of the Council (five altogether), in sessions of the Twelve (now regularly referred to as the Thirteen), and even in some of the meetings of the Big Five.[45]

[41] The Polish, Jugoslav, and Norwegian representatives supported the invitation, but with the express understanding that the legal questions involved were reserved. It was reported later, on "good authority," that the Polish representative (M. Sokal) had at first desired to support the Japanese objections. If true, this may have been due to fear of opening the way for a Russian seat also. *N. Y. Herald* (Paris ed.), Nov. 4, 1931.

[42] *Council Minutes*, 65th Session, 10th Meeting (Oct. 16, 1931), pp. 1-2.

[43] Notes from Prentiss Gilbert to the Secretary-General and to the president of the Council, both dated Oct. 16, 1931. Press copies distributed in Geneva; latter printed in *ibid.*, 12th Meeting, p. 1.

[44] He was formally ushered in and placed at the foot of the table, in one of the seats regularly reserved for special members; he was assisted by two of the other special American League observers from the Geneva consulate, Messrs. Everett and Riddleberger.

[45] Numerous meetings of the members of the Council, exclusive of the Chinese and Japanese, were held. These were commonly referred to in Geneva as the Terrible

Whether this participation, secured after so dramatic a struggle, actually contributed very much toward the settlement of the Manchurian dispute is somewhat doubtful. Mr. Gilbert was, in the first place, himself youthful, inexperienced in diplomacy, lacking in prestige, and no doubt embarrassed by the magnitude of his responsibility and the delicacy of his task. Secondly, he was so limited by his instructions and by the conditions under which he became associated with the Council that there was actually very little that he could say or do. He had been authorized by the Secretary of State "to participate in the discussions of the Council when they relate to the possible application of the Kellogg-Briand Pact, . . . to report the result of such discussions to the department for its determination as to possible action;" if present at the discussion of any other aspect of the dispute, "it must be only as an observer and auditor."[46] He was, in other words, to be entitled to participate in the deliberations of the Council only if and when the Kellogg Pact was involved, and otherwise to act only as an observer. Moreover, the Japanese refused to join in the welcome to Mr. Gilbert,[47] persisted in their objections to American participation,[48] and probably forced a more meticulous observance of those instructions than had actually been intended.[49] Not until Secretary Stimson had apparently assured the Japanese ambassador that "Mr. Gilbert is not expected to take a prominent part in the proceedings, but

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Twelve, and in Paris as the Doubtful Dozen. The Big Five was the special Council committee, composed of the representatives of France, Great Britain, Germany, Italy, and Spain, constituted at the beginning of the dispute to work out details. Since neither group was actually the regular Council, the record of their meetings is not available in the Council minutes.

[46] Text in *N. Y. Times*, Oct. 17, 1931, p. 2, c. 4.

[47] The Norwegian representative (Braadland, foreign minister) also refrained from uttering any words of welcome, but later, in view of the comment, issued a statement to the press, saying that of course he too welcomed the American collaboration. *Information Section Communiqué No. 5368* (Oct. 19, 1931). It was generally understood in Geneva that he had refrained at first in order to make the Japanese abstention less conspicuous.

[48] Cf. memorandum of Yoshizawa to Briand, Oct. 17, 1931. Doc. C. 729, M. 334, 1931, VII, printed in *Geneva Special Studies*, II, no. 11, p. 41. This memorandum was fairly characterized as "a startlingly bitter and unexpected note reiterating and emphasizing her protest against the presence of an American representative during the Council's consideration of the Manchurian question, declaring she did not see why the United States any more than any other non-member should be asked to participate." *Chicago Tribune* (Paris ed.), Oct. 19, 1931.

[49] A Geneva paper, usually quite accurate in its information, reported, while the invitation was under consideration, that the Council was preparing to seat the American representative "on a footing of equality with all the other members of the Council," and later stated that this was abandoned following the Japanese opposition. *Journal des Nations*, Oct. 15, Nov. 14, 1931.

will be there mainly to keep his government informed,'' were the objections to his participation finally withdrawn.[50]

At any rate, Mr. Gilbert was careful to emphasize, in his opening statement, the value of the Kellogg Pact as ''an effective means of marshalling the public opinion of the world behind the use of pacific means only in the solution of controversies between nations,'' and that the purpose of the United States in accepting the Council's invitation was ''that thus we may most easily and effectively take common counsel with you on this subject.'' He was equally careful to state with particular emphasis: ''In your deliberations as to the application of the machinery of the Covenant of the League of Nations, I repeat, we can, of course, take no part.''[51] Beyond this opening statement, Mr. Gilbert contributed nothing to the public discussions of the Council, and that in spite of the fact that the Council's next step was to invoke the Kellogg Pact,[52] and that there were on numerous occasions references to that instrument. Even at the close of the sessions on October 24, when the Council had finally, by a vote of 13 to 1, solemnly declared, on the basis of the Kellogg Pact and the Nine-Power Treaty as well as the Covenant, that the Japanese ought to withdraw their troops within three weeks,[53] and when Señor de Madariaga had been bold enough to hope that ''if the debates of the Council have to go on . . . the coöperation of the United States will also go on,'' Mr. Gilbert replied by thanking the president and the representative of Norway for their references to himself earlier in the afternoon.[54] He was rather aptly characterized as ''Sitter-in Gilbert, the exponent of Golden Silence.''[55]

[50] *N. Y. Times*, Oct. 20, 1931, p. 1, c. 8 (Tokyo corr. by Hugh Byas); cf. *Geneva Special Studies*, II, no. 11, pp. 39, 43. The withdrawal of the objections was announced in Washington on Oct. 19 by Ambassador Debuchi, after a conference with Secretary Stimson. Yoshizawa made a statement to the Council on Oct. 22, in which, as a matter of fact, he maintained the legal position he had taken, but spoke in a friendly manner of the United States, to which Mr. Gilbert responded.

[51] *Council Minutes*, 65th Session, 12th Meeting, p. 2.

[52] At the suggestion of the Council in private session on Oct. 17, the governments represented on the Council sent identic notes to Japan and China formally invoking the Pact; the Council, through the French government, notified the United States (and other signatories) of this action, whereupon it too similarly invoked the Pact on Oct. 20. See statement of Briand to Council, Oct. 22, 1931. *Ibid.*, 13th Meeting, pp. 1-2.

[53] Text of Council resolution in *ibid.*, p. 3. In view of the requirement of unanimity under Art. 11, the resolution was of course not legally binding.

[54] ''Amid a deep silence, Mr. Gilbert asked leave to speak. The eagerness with which eyes turned to him and listeners leaned forward to hear, in the expectant wish that the American government might have authorized its representative to make some declaration in regard to the Council's resolution, had to be chilled. He thanked the president and the representative of Norway for what they had said, and promised to transmit their words to his government.'' *Geneva Special Studies*, II, no. 11, p. 59.

[55] *Time*, Nov. 2, 1931, p. 21.

This is not to say that Mr. Gilbert's participation was useless. He was active in private conferences with the president and members of the Council; he was in constant telephonic communication with the State Department; he was particularly zealous to silence any rumor that arose of lack of interest on the part of the United States. Even his mute presence at the Council table was impressive as a demonstration of official American interest and confidence in the League and of official American readiness to coöperate in some manner and presumably to an extent greater than theretofore. League officials confidently expected that the Council resolution of October 24 would be promptly supported by a declaration from the State Department, particularly as it had been intimated in Washington, if not by Mr. Gilbert in Geneva, that the resolution, when proposed by M. Briand, was "in line with views of officials here."[56] They were somewhat taken aback, therefore, when no such public declaration was forthcoming and no new representations of any kind made to the Japanese government until two weeks later.[57]

It was definitely charged in Washington that this weakened support of the League was due to Secretary Stimson's concern "for domestic political reasons lest an impression become current that the Hoover Administration has identified itself completely with the League in the Manchurian crisis."[58] At any rate, Under-Secretary Castle explained, on October 31, that the Council resolution for Japanese evacuation had not been endorsed, "because America's position on this question had not been asked." The government, he said, "considered that, not being a member of the League, it was not entitled to make any suggestions unless invited to do so."[59] A week later, Secretary Stimson, referring to the new representations made in Tokyo by Ambassador Forbes, declared "inaccurate" the reports that the United States had adhered to the Council's resolution,

[56] *N. Y. Times* (special Washington despatch), Oct. 23, 1931, p. 2, c. 2. It was even thought by some that reassurances and possibly pressure from Washington had caused a strengthening of the Council resolution. *Ibid.* (Lansing Warren corr.), p. 1, c. 4; *Chicago Tribune* (Paris ed.), Oct. 23, 1931.

[57] Ambassador Forbes, on Nov. 5, delivered to Baron Shidehara a communication which was not a formal "note," but merely a "memorandum" accompanied by an oral explanation. Text in *Conditions in Manchuria* (S. Doc. No. 55, 72 Cong., 1 Sess.), pp. 30-32. Secretary Stimson emphasized, in public statements, this distinction between a note and a memorandum.

[58] *N. Y. Times*, Nov. 7, 1931, p. 3, c. 6.

[59] Statement quoted in *Chicago Tribune* (Paris ed.), Nov. 1, 1931; cf. *N. Y. Times*, Nov. 1, Sec. 1, p. 22, c. 3. This reason for inaction or for failure to support the League was henceforth used on numerous occasions. The writer understands that this statement by Mr. Castle was the first intimation to League officials in Geneva that any formal invitation was expected after the close relations established by Mr. Gilbert; even the American officials in Geneva were daily expecting a declaration of some sort from the State Department.

and began once more to emphasize the policy of the United States as one of coöperation with other nations, but "by acting independently through the diplomatic channels and reserving complete independence of judgment as to each step."[60] As for joining with the League in the use of more serious measures, such as the withdrawal of diplomatic representatives and the application of an economic boycott, it became quite clear that the Administration, although avowedly sympathetic with the objective of forcing Japanese withdrawal from Manchuria,[61] feared the political effect of energetic action and declined to commit itself to anything of that sort.[62]

This principle of "independent coöperation" was continued in the third series of Council meetings devoted to the Manchurian crisis. The Secretary-General, assuming that the United States would continue the representation it had itself sought in October, sent the State Department official notice of the meetings scheduled to begin in Paris[63] on November 16. The Administration, however, now ordered Ambassador Dawes, instead of Mr. Gilbert, to act for the United States by conferring with members of the Council, but not to sit with the Council unless absolutely necessary.[64]

This move was at first welcomed in Geneva as a manifestation of increased interest in the League and of a firmer determination to give it energetic and open support; for it was not forgotten that Dawes had earlier been one of the most ardent and vigorous of American pro-Leaguers,[65] and was always known for his frank, direct, and energetic manner. He had apparently been given a good deal of freedom by the State Department, and it was hoped that he would eventually decide to sit with the Council and thus invigorate that body. As a matter of fact,

[60] *N. Y. Times*, Nov. 7, 1931, p. 3, c. 6.

[61] "In carefully couched diplomatic language, Under-Secretary of State William R. Castle, Jr., tonight [Oct. 31] indicated that the United States will not stand for Japan's continued occupation of Manchuria." *Chicago Tribune* (Paris ed.), Nov. 1, 1931; cf. *N. Y. Times*, Nov. 1, Sec. 1, p. 22, c. 3.

[62] That there may have been some grounds for this fear is indicated by the fact that even the pro-League *N. Y. Times* declared that "if any action of this sort is really undertaken, the United States cannot be expected to have a part in it." See editorial, "United Efforts for Peace," Nov. 10, 1931.

[63] The writer has good reason to believe that the decision to meet in Paris was due, at least in part, to "unofficial" American suggestions that it would be easier to send an important American representative like Dawes to Paris than to Geneva, the latter being too obviously *League* atmosphere.

[64] Text of Secretary Stimson's statement in *N. Y. Times*, Nov. 12, 1931, p. 1, c. 8. Both this statement and that of Gen. Dawes implied that Dawes might sit if necessary.

[65] See his statement pleading for ratification of both Treaty and Covenant, in *Chicago Tribune*, Sept. 1, 1919.

General Dawes did not at any time sit at the Council table; he was particularly careful not to appear in the Council room even as an observer or auditor; he avoided any use of the American officials experienced in League contacts;[66] and in other respects he kept himself conspicuously aloof from the official Council and its paraphernalia.[67] He even declared publicly, during the course of the negotiations, that his presence at Council meetings "would not only be inappropriate but might even embarrass the efforts of the Council itself."[68] He did, to be sure, announce to the Council on the last day of the Paris sessions (on December 10) that he proposed to sit at that public session and read a statement; and a chair was placed for him at the Council table. A few minutes before the session opened, however, he telephoned that he had changed his mind and would not sit.

Nevertheless, General Dawes reëmphasized, in a public statement, the interest of the United States, through the Kellogg Pact and the Nine-Power Treaty, in this League problem, and declared that he hoped "to make every contact which is essential to the exercise of any influence we may have and to make effective the Kellogg Pact."[69] The problem, as he himself admitted, concerned "the modalities of his hovering benignly over the Council table without sitting down to it." That problem was solved by his very active participation in daily conferences with those most concerned—the president and individual numbers of the Council,[70] the representatives of China and Japan, the Secretary-General and other members of the League Secretariat.[71] Thus there was established in Paris the so-called "Dawes League," meeting at the Hotel Ritz, through which the closest sort of interlocking contact was maintained with the constitutional League, meeting at the Quai d'Orsay.

This method of collaboration was somewhat intricate; it obviously slowed up the proceedings; it led to much suspicion that the United States was actually working separately instead of with the League; and it was probably largely responsible for creating what one correspondent described as a deadlock more important than the Sino-Japanese dead-

[66] Neither Prentiss Gilbert nor any other American official that had carried on the previous contacts with the Council was sent to Paris to assist Dawes.

[67] See accounts by Clarence K. Streit and Lansing Warren, in *N. Y. Times*, Nov. 24, 1931, p. 18, cc. 4-5; Nov. 25, p. 10, c. 1.

[68] Statement issued Nov. 20. Text in *ibid.*, Nov. 21, 1931, p. 2, cc. 1-2.

[69] Statement issued on arrival in Paris, Nov. 13. *Ibid.*, Nov. 14, 1931, p. 10, c. 8.

[70] That is, with the representatives of the Great Powers, and particularly with those of Great Britain and France; he apparently ignored completely the smaller powers, and thereby incurred considerable resentment.

[71] An American member of the Secretariat acted as the "contact man" between Dawes and the Council, aside from the personal conferences.

lock—"the one between the Council's Committee of Twelve and Washington over who should take the lead in ending the spectacle that makes neither very happy."[72] This method may also on occasion have irked the temper of one so naturally frank and direct as General Dawes. But it had the advantage of permitting him to discuss with the Council, without appearing to do so, something besides the obviously futile Kellogg Pact, to suggest solutions, and perhaps even to give assurances of support that apparently could not be made at an official Council meeting. At any rate, assurances were given from time to time, both in Paris and in Washington, that the United States government retained full confidence in the efficacy of the League machinery, and preferred to work with that machinery rather than in any other way.[73]

As a result of this involved and cumbersome system of "independent coöperation" between the United States and the Council, the compromise formula of December 10 was finally worked out, and given, both before and after its adoption, the official approval of the United States.[74] In fact, this formula, containing as its essential feature the provision for a neutral commission of inquiry, was generally understood to be actually of American origin, although in September the Administration had opposed and blocked just such a commission.[75] State Department officials,

[72] Clarence K. Streit, in *N. Y. Times*, Nov. 25, 1931, p. 10, cc. 3-5.

[73] Dawes issued a statement on Nov. 20, after an extended conference with Briand, which a Paris correspondent said "will require three denials by Secretary of State Stimson to clarify it," but which explained quite plainly that his own non-presence at Council meetings "in no way indicates that the United States is not wholly sympathetic with the efforts being made by the League to support the objective of peace in Manchuria." *Chicago Tribune* (Paris ed.), Nov. 21, 1931. Further, it was reported that "the opinion prevails [among State Department officials] that the League of Nations offers better facilities for dealing with Manchurian questions than the Nine-Power Treaty." Washington despatches in *Chicago Tribune* and *N. Y. Herald* (Paris eds.), Nov. 26, 1931; cf. statements by Stimson, in *N. Y. Times*, Nov. 18, p. 5, c. 1; Nov. 26, p. 2, cc. 3-4.

[74] Statement by Dawes, Nov. 25. *Chicago Tribune* and *N. Y. Herald* (Paris eds.), Nov. 26, 1931. The text of this statement published in the State Department White Paper is obviously erroneous, in that it has Dawes approving a resolution proposed by the "Government of the United States" instead of by the "Council of the League." See S. Doc. No. 55, 72 Cong., 1 Sess., p. 41. The formula was tentatively announced Nov. 20, officially proposed by the Japanese to the Council Nov. 21, considerably modified during the following three weeks, and finally adopted on Dec. 10, 1931. Approval of the resolution in its final form was given by Dawes on Dec. 9, and by Secretary Stimson on Dec. 10. Text of resolution in *Official Journal*, XII, 2374-2375 (Dec., 1931).

[75] Under-Secretary Castle revealed, on Nov. 12, that the United States expected to propose a compromise plan to the Council, but gave no details except that it would involve a neutral commission of inquiry; later, the State Department denied any such plan, but the reports persisted. *Chicago Tribune* (Paris ed.), Nov. 13, 15, 19, 1931; cf. *N. Y. Times*, Nov. 15, Sec. 1, p. 2, c. 6.

at all events, boasted about the "influential part" taken by the United States in the drafting of this Council resolution, and pointed out that "whether General Dawes formally sat with the Council or refrained from that course was quite incidental. He has taken a leading part in the private conversations in Paris, which have constituted the real negotiations of the League."[76]

Having thus participated actively in the decision to create a Manchurian commission of inquiry, to be appointed by the Council of the League and to act under its authority, the United States also apparently agreed to participate actively and officially in the commission's work. An able and distinguished army officer, Major-General Frank R. McCoy, was permitted to accept membership on the commission,[77] the official, rather than private, character of his participation being indicated by the fact that when the commission met in Geneva, on January 21, 1932, to organize and make its general plans, the American consul in Geneva, Mr. Gilbert, attended the meetings in the absence of General McCoy.[78] When the League officials were considering whether to rush the commission from Geneva to Manchuria by the Trans-Siberian railway, or even by airplane, or whether to send it via the United States, the American government was reported to favor the latter route, chiefly in order to put the European commissioners in touch with American public opinion;[79] and when that longer route was finally undertaken, the State Department officially welcomed the commission to the United States and made special arrangements for facilitating its journey across the continent.

Although the United States had thus associated itself quite formally and fully with the Council in the Manchurian phase of the Sino-Japanese dispute, and appeared ready to continue that close coöperation so long as the Manchurian question was on the Council's agenda,[80] it for some time

[76] *N. Y. Times*, Nov. 26, 1931, p. 2, cc. 3-4.

[77] Mr. Walker D. Hines was first appointed, but was unable to accept. The Commission was finally constituted as follows: Count Aldrovandi-Marescotti (Italian), General Claudel (French), Lord Lytton (British), Major-General McCoy (American), and Dr. Schnee (German). Lord Lytton was elected chairman, the commission being since commonly referred to as the Lytton Commission.

[78] *Information Section Communiqué*, No. 5445 (Jan. 21, 1932).

[79] *N. Y. Times*, Feb. 1, 1932, p. 4, c. 5. While this reported preference of the American government may have influenced the choice of route, it should be noted that there was fear of interrupted service on the Chinese Eastern Railway. The Chinese representative on the Council, Dr. Yen, protested on several occasions against this choice of the longer route.

[80] The Assembly, which met in special session on March 3, 1932, in response to China's request, assumed jurisdiction of the Manchurian, as well as of the Shanghai question, over Japanese protest. That action is not, however, taken to relieve the Council of its continuing responsibility in the matter, and the Lytton Commission appears still to be considered as a Council commission, although subject, through the

followed a policy of greater aloofness in respect to the much more alarming Shanghai phase. By the time the Council reconvened in regular session on January 25, 1932, incidents had occurred at Shanghai which later developed into open hostilities in that area. China, on January 29, again appealed to the Council, now formally invoking Articles 10 and 15 of the Covenant, in addition to Article 11, under which its case was already being heard.[81] The Council promptly accepted jurisdiction of this new appeal, in spite of vigorous Japanese opposition, and steps were at once taken to proceed with the investigation required under Article 15. A commission of inquiry was constituted the next day (January 30), consisting of the consular representatives in Shanghai of the states members of the Council (other than the disputants),[82] and the United States was invited to add its consul in Shanghai to the commission as well. In spite of the very special interests of the United States in the Shanghai area and its own strong action to secure peace, Secretary Stimson declined this invitation, explaining that, although the United States was "heartily sympathetic" with the League's efforts to preserve peace in the Far East and would "continue to extend its coöperation wherever this is possible," it could not participate officially in a League commission "which will be acting under the provisions of one of the articles of the League Covenant." Secretary Stimson agreed, however, to permit "coöperation" with the Shanghai commission, and Mr. Cunningham, the American consul in Shanghai, was accordingly instructed to engage in such coöperation.[83]

Council, to the orders of the Assembly. See correspondence between the president of the Assembly (Hymans) and the president of the Council (Paul-Boncour), Mar. 18, 1932; and between the Chinese representative (Dr. Yen) and the Secretary-General, Mar. 19 and 21, 1932. Docs. A. (Extr.) 64, 1932, VII, and A. (Extr.) Com. spec. 1.

[81] Under Art. 15, in contrast to Art. 11, the votes of the disputing parties are not taken into account, and the Council (or Assembly) has decisive, rather than merely conciliatory, powers. The procedure under Art. 15 also anticipates and may require the application of the sanctions provided by Art. 16. It should be noted that Dr. Yen made it plain that these articles would have been invoked at this time had there been no Shanghai incidents, and that the new Chinese appeal related to the whole dispute, not merely to Shanghai. Text of Chinese appeal and explanation by Dr. Yen, in *Official Journal*, XIII, 335-336, 343 (Mar., 1932).

[82] These were Great Britain, France, Italy, Germany, Spain, and Norway. The Italian consul, Signor Ciano, acted as chairman of this Consular Commission, and M. Haas, the director of the League's Transit Section, then in China for other purposes, as secretary.

[83] See text of Stimson's statement, Feb. 1, 1932, in *N. Y. Times*, Feb. 2, p. 19, c. 5; cf. also *Information Section Communiqué*, No. 5471 (Feb. 1, 1932). This explanation is obviously misleading, in that Mr. Stimson ignores the fact that the Manchurian Commission is also, of course, acting under the Covenant (as have all the numerous other League commissions with which the United States has officially participated).

The nice distinction thus again drawn by the Administration between "participation" and "coöperation" with League organs had somewhat unfortunate results. In the first place, it complicated the League procedure so that delays and uncertainties were inevitable. The first report of the Shanghai commission was held up for some time in order that the American consul might receive instructions from Washington, after the report was ready, whether to approve or sign; furthermore, American approval had finally to be separately cabled to Geneva three days later than the report.[84] By the end of March, four reports had been made by this Shanghai commission to the Council (and Special Assembly), in all of which the American consul joined, although apparently without adding his formal signature.[85] In the second place, this emphasis by the Washington government on subtle formulas at such a critical time puzzled and irritated the members of the League; it made them again somewhat suspicious of the extent to which even this "coöperation" might continue; it tended therefore to induce a particularly cautious and hesitant approach on the part of the Council to the whole Shanghai problem which certainly did not give the Japanese the impression of a strong and united front.

This policy of official aloofness from the League manifested itself also in other respects. Whereas, during the previous Manchurian phase, the United States had worked very definitely in conjunction with the Council,[86] it now initiated and apparently preferred the approach to the Shanghai problem in conjunction with the British government (and later with the other Great Powers), rather than with the Council of the League.

Presumably the distinction between the Manchurian and the Shanghai commissions, to the Hoover-Stimson Administration, lay in the fact that the former was appointed under Art. 11, with its purely conciliatory implications, while the latter was appointed under Art. 15, with its serious implications as to the application of sanctions. Even that distinction is scarcely any longer admissible, in view of the acceptance by both the Council and Assembly of the Chinese appeal of the whole case (including Manchuria) under Art. 15.

[84] See Docs. C. 185, M. 90, 1932, VII (first report, cabled from Shanghai, Feb. 6), and C. 209, M. 109, 1932, VII (U.S. approval, cabled Feb. 9), in *Official Journal*, XIII, 374, 378-379 (Mar., 1932). Cf. also accounts in *N. Y. Times*, Feb. 6, p. 11, c. 1; Feb. 7, p. 25, c. 1; Feb. 12, p. 3, c. 2.

[85] The first three of these reports were transmitted to the Council and later submitted to the Assembly as Doc. A. (Extr.) 3, 1932, VII. Texts in *Official Journal*, XIII, 374-376, 379-380, 382-383 (Mar., 1932). The fourth was transmitted directly to the Assembly, that body then having convened. Doc. A. (Extr.) 15, 1932, VII.

[86] The published correspondence shows that, in its separate notes to both China and Japan, the United States was constantly emphasizing the obligations of those powers under the Covenant and the Council resolutions, as well as under the Kellogg Pact. *Conditions in Manchuria* (S. Doc. No. 55, 72 Cong., 1 Sess.), *passim*.

The British government, at this time itself dominated by elements not particularly sympathetic with the League, fell easily into this system, and for some time Shanghai matters were virtually out of the hands of the Council,[87] that body merely being asked to approve and support what these specially interested powers had already agreed to. This method was resented in Geneva, particularly by the smaller powers represented on the Council, who felt that it removed from the Shanghai negotiations the broad and disinterested approach envisaged by the Covenant, but who nevertheless felt obliged, in order to maintain the coöperation of the United States in some form, to content themselves with securing from those "Shanghai powers" an occasional report.[88]

The apparent timidity of the Council, induced by this lack of a clear understanding with the United States, put the United States for a time in a position of leadership which was actually very dangerous, in that it provoked, in turn, more Japanese resentment against the United States than against the members of the League. Thus, Secretary Stimson's identic note of January 7, declaring that there could be no recognition of situations or agreements brought about by methods in violation of existing treaties, was apparently sent without previous consultation with Council members, and was not even communicated afterwards to the Council. When the Council three weeks later (January 28) formulated a statement to the same effect, which included a specific reference to the Stimson note, and on February 16 formally transmitted to the Japanese government its support of this American policy, it was but natural that the Japanese should hold the United States responsible for the new and important development.[89] Americans may well be proud of this brief

[87] Such a keen observer as Clarence K. Streit has expressed the opinion that this British policy of virtually taking the situation out of the hands of the Council was "to suit exigencies of the American policy." *N. Y. Times*, Feb. 9, 1932, p. 23, c. 6.

[88] Thus the five-point proposal by the United States and Great Britain was reported to the Council on Feb. 2 by Mr. J. H. Thomas, after it had been delivered to China and Japan; and the later armistice negotiations were similarly reported on Feb. 29 by Sir John Simon, following which report the Council officially proposed the round-table conference. Even the other Great Powers, France, Italy, and Germany, were ignored by the United States when these negotiations were initiated, and would much have preferred to act through the League rather than merely to "support" the United States and Great Britain.

[89] See declaration by the president of the Council (Paul-Boncour), Jan. 29; and Appeal of the Council Members to Japan, Feb. 12. *Official Journal*, XIII, 336-337, 383-384 (Mar., 1932). The Japanese directed their resentment over this Council note largely at the United States, asserting that the State Department had even furnished the first draft. This was denied in Washington, and actually the British representative (Lord Londonderry) was responsible for the strongest paragraph; but it suggests the special danger in the isolated position of the United States. *N. Y. Times* (Tokyo corr.,

period of world leadership, but at the same time regret that the advantages of united action to their own country as well as to the cause of peace were not more clearly foreseen.

The general situation produced by this lack of coördinated effort was well summarized by a keen observer when he wrote: "League of Nations, British, and American quarters here [in Geneva] take a very serious view of the consequences to the League, to Britain, and to the United States if a remedy is not found soon for the paralysis which yesterday's (February 9) session of the League Council showed was afflicting their efforts to end the Far Eastern conflict. As far as can be seen here, the evidence from all sides indicates that all this is a result of misunderstanding between Washington and Geneva and between Washington and London, and more generally to the lack of coördination of the efforts of all three. . . . Aware that this risk [of collision with Japan] will be especially great if the peace action is not united, Geneva and London hesitate for fear Washington will not back them up when the dangerous showdown arrives, as they feel Washington did when the Council voted that Japan should withdraw her troops by November 14. Washington meanwhile apparently holds back because it fears London and Geneva will not back it up, as it feels they did when Secretary Stimson took the initiative of sending Tokyo his note of January 7. At the root of the troubles is the fact that never since the Manchurian conflict began have the peacemakers acted in unison. First Washington was echoing Geneva, and lately Geneva has been echoing Washington, and not once have they spoken with one voice. The only way for each to avoid the danger of taking the initiative alone, it is held here, is for all to take the initiative simultaneously. . . . Geneva is ready to talk, act, and risk for peace simultaneously with Washington. The whole question here is whether Washington is ready to talk, act, and risk for peace simultaneously with the League. Because . . . Washington, for domestic reasons which all understand, prefers to avoid appearing to work too closely with the League, the United States lately has been tending toward limiting her collaboration to London and ignoring Geneva. . . . Geneva knows directly from the British what the British are thinking. It feels the need of knowing from the United States what the United States is thinking."[90]

In the conduct of its actual relations with the Council at Geneva, the

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by Hugh Byas), Feb. 19, 1932, p. 10, c. 3. The Stimson letter of Feb. 24 to Sen. Borah similarly was endorsed by the Assembly and its principles incorporated into the Assembly resolution. The letter was officially communicated to the Secretary-General by Minister Wilson, and was thereupon circulated in Geneva as Doc. C. 276, M. 164, 1932 VII.

[90] Clarence K. Streit, in *N. Y. Times*, Feb. 11, 1932, p. 4, c. 2.

Hoover-Stimson Administration returned to the earlier system of exchange of communications and informal liaison. Minister Hugh R. Wilson was put in charge of this liaison with respect to these Far Eastern questions, instead of Consul Prentiss B. Gilbert, and, for informal conversations with Council members, special use was made of Mr. Norman H. Davis, conspicuous Wilsonian Democrat who had already served on numerous League committees, and who was in Geneva as a member of the disarmament delegation. These admirable selections no doubt served very effectively to allay some of the distrust and misunderstanding caused by the lack of correlation in other respects between Washington and Geneva.

With such excellent representation at Geneva, the Administration nevertheless appeared to prefer, during this period, to express its point of view in Council meetings through the British representative rather than through its own or League officials.[91] This extraordinary development reached its climax on February 29, when during the Council's public consideration of the proposal for a round-table conference at Shanghai, Sir John Simon, the British foreign minister, first supported the plan on behalf of the British government, and then, "looking out over the diplomatic box where a number of American diplomats were pretty well concealed behind Secretariat employees and attachés of other delegations," he continued: "Mr. President, so far I have spoken of the support of the British government—the government for which I have the honor to speak—but there is another government, whose citizens have great interests in the International Settlement and whose devotion to the cause of peace and desire to promote a just conclusion of the Sino-Japanese conflict is known to us all. I refer to the United States of America. America is not a member of the League of Nations, but none the less I am happy to be able to announce here at a meeting of the Council of the League that I have been in close consultation with the American government, and I am authorized to communicate the assurance of the United States that it is prepared to associate itself with the step which we are now taking and to instruct its representatives in the Shanghai area to coöperate with us who are members of the League in the fullest measure in carrying out the proposals which the president has put before us and which I hope we are about to adopt."[92]

[91] It was reported from Washington that the Administration was for a time seriously considering acting through the Italian, rather than through the British, representative. Arthur Krock, in *ibid.*, Feb. 27, 1932, p. 7, c. 1.

[92] *Council Minutes* (mimeographed), Feb. 29, 1932. At the previous secret session of the Council, representatives of the smaller powers had pressed for a more inclusive conference at Shanghai, but Sir John Simon used his authorization to speak for the United States to force the adoption without change of the more limited plan, pointing out that the slightest changes would necessitate further consultation with Secretary Stimson, and thus delay matters.

This event was described most aptly by a correspondent when he wrote: "Today's progress toward peace was achieved with the United States speaking and acting closer in unison with the Council than it has done since Prentiss B. Gilbert sat at the Council table. The United States was not represented today in the secret or public sitting of the Council by any of the five American delegates it has here. Its spokesman was Sir John Simon, the British foreign secretary."[93] The whole affair was the more striking in view of the fact that Minister Hugh Wilson apparently had in his pocket at the time a communication to the Secretary-General, announcing the Administration's support of the Council plan and its agreement to coöperate in carrying out the plan, which Mr. Wilson delivered promptly after the adjournment of the Council.[94] Had the communication been received by the Secretary-General a few minutes earlier, he presumably would have read it to the Council in the ordinary performance of a perfunctory duty; evidently the Hoover-Stimson Administration therefore deliberately chose to be represented in the Council by the British foreign minister.

This was the more extraordinary since Sir John Simon had not on all former occasions correctly presented the American point of view. Before the Council met in private session on February 12, for example, Mr. Wilson had officially informed the Secretary-General and others that the Anglo-American negotiations with the Japanese had completely broken down. Had that been revealed to the Council, drastic action would probably have been taken at once. Sir John Simon, however, represented to the other Council members that these negotiations were still going on, and on that ground secured the further delay and inaction that he in particular desired. Secretary Stimson was reported as highly indignant at this misrepresentation of the American viewpoint by Sir John, but he nevertheless continued to permit, and even to "authorize," that gentleman to speak for the United States on these crucial matters.[95]

Whatever one may think of the methods used, the fact is that close relations with the Council were thus again maintained during the latter stages, the State Department even pointing out, with respect to the final Council action on the Shanghai matter before the Assembly assumed

[93] Clarence K. Streit, in *N. Y. Times*, Mar. 1, 1932, p. 1, c. 7; cf. account in *Chicago Tribune* (Paris ed.), Mar. 1.

[94] This communication was at the same time circulated to the press by Mr. Robert T. Pell, the press officer of the American disarmament delegation. It was circulated by the Secretary-General as Doc. C. 286, M. 173, 1932, VII.

[95] These developments were well known in Geneva. See account in *N. Y. Times*, Feb. 14, 1932, p. 26, c. 8. Sir John Simon was during these weeks constantly in opposition to strong action, and moderated his attitude somewhat during the Assembly consideration of the dispute, probably as the result of increasing pressure of liberal British opinion.

jurisdiction, that "the United States gave its approval and promise of coöperation *in advance* to the Council of the League of Nations," asserting that "constant contact" had been maintained at Geneva through Minister Wilson, and stating that "the Council in formulating its appeal made no move without first ascertaining the reaction of the United States government."[96] When the dispute was referred to the Assembly, at the request of China,[97] the United States maintained official, if informal, relations with that body as well, and thus continued somehow its coöperation with the League for peace in the Far East.[98] It would appear, in view of all the circumstances, that the United States must bear its full share of responsibility with the Council for the latter's success or failure up to this point.

It is significant that these dramatic developments have apparently aroused very little opposition in the United States. Senator Hiram Johnson, of course, condemned coöperation with the Council from the start, as proving a dictatorship, an oligarchy, and another plot by international bankers. "Into the League of Nations," he said, "America is shoved despite our people."[99] Senator Borah, who at the time had no comment to make on Mr. Gilbert's participation, and apparently did not object to that of General Dawes, finally attacked certain actions at Paris as "an uncalled for move to draw the United States deeper into the League's

[96] *Ibid.* (special Washington dispatch), Mar. 1, 1932, p. 17, c. 4.

[97] Chinese note of Feb. 12, requesting this action, and Council resolution of Feb. 19, formally acceding to the request and calling the Assembly. *Official Journal*, XIII, 371-372, 386 (Mar., 1932).

[98] The writer is not concerned, in this article, with the relations to the Special Assembly, but may merely call attention to the keen interest of the United States in the work of that body, as indicated by a statement made by Ambassador Hugh Gibson to the General Commission of the Disarmament Conference at its fifth meeting on March 8: "One of the arguments put forward in favor of our getting the commissions to work was that in doing this we should be satisfying the demand of public opinion that we get on with this work. It may not be very flattering to this commission, but I think we cannot escape the fact that public opinion is much more interested now in the far more urgent question that is occupying our attention here in Geneva, and that it would not be satisfying public opinion if we were to put aside that urgent question in order to go through a certain amount of preliminary work in our commissions. If we want to defer to public opinion, I think we should do so far more effectively if we were to allow our present work to be set aside in order that we might come to grips with the really vital and urgent question which is before the Assembly." This statement was included in the stenographic record hung immediately after its delivery in the Press Room, but is not included in the printed minutes, which do not show Mr. Gibson making any remarks at all at that meeting. The "we" in Mr. Gibson's statement was particularly noticed and commented on in Geneva.

[99] Statement issued in San Francisco, Oct. 15. *N. Y. Times*, Oct. 16, 1931, p. 2, c. 6.

affairs."[100] On the other hand, the "applause for the Hoover-Stimson policy," as the *Literary Digest* summed it up, seemed to be "louder and more widespread than the booing and hissing."[101] A letter of approval and encouragement was sent to President Hoover on Armistice Day, signed by 161 leading men and women in the United States, representing all parties, professions, and sections of the country;[102] and a careful survey of newspaper opinion showed that almost seventy-five per cent of the daily press in the country as a whole—almost ninety per cent in the Middle West—similarly approved of the collaboration with the Council, even in its most dramatic form.[103]

What all this may portend for the future, it would be rash to predict. The Secretary of State was careful to deny, when Mr. Gilbert was about to take his seat with the Council, that the step meant that the United States was entering the League "either by the back or the front door."[104] Nevertheless, the seating of Mr. Gilbert with the Council in Geneva and the conferring of Mr. Dawes with the Council in Paris together constituted a gesture whose significance can hardly be overestimated. For, as Walter Lippmann has so aptly pointed out, "a gesture must mean more than it says if it is to accomplish anything. . . . If it means less than it says, it will fail, and more gestures will have to be made which will also fail, until everybody is so humiliated and exasperated that nobody has any common sense left."[105]

At all events, the practice of communication, informal consultation, formal conference, and even actual seating of a representative with the Council, has been established, and may be expected to be continued on occasions when the interests of the United States or of the world community are sufficiently impelling. Even bitter opponents of American membership in the League have now felt obliged to say that "however it

[100] *N. Y. Herald* (Paris ed.), Nov. 21, 1931; full statement in *N. Y. Times*, Nov. 21, p. 2, c. 5. He particularly attacked Briand, apparently for his reputed statement, on Nov. 19, to the effect that "intervention by the United States, whether independently or in coöperation with the League of Nations, would be helpful."

[101] *Literary Digest*, Oct. 24, 1931, p. 6.

[102] Text of letter in *N. Y. Times*, Nov. 12, 1931, p. 2, cc. 5-6. The list of signers included ten of the most prominent university and college presidents; five governors and ex-governors, of whom four were Republicans; six former ambassadors and ministers, three Republicans; and such others as Newton D. Baker, Rabbi Wise, Jane Addams, William Allen White, Paul Warburg, Julius H. Barnes, and Admiral Sims.

[103] Survey made by League of Nations Association; further summaries of newspaper opinion in *Geneva Special Studies*, II, no. 11, pp. 40, 42, 43, 46, 54, 59.

[104] *N. Y. Times*, Oct. 15, 1931, p. 2, c. 4.

[105] Editorial, "General Dawes in Paris," in *N. Y. Herald* (Paris ed.), Nov. 21, 1931.

[the Manchurian question] is settled, this country will have made its gesture, and cannot in the future remain aloof.''[106] It is not impossible, however, in the light of these recent developments, that the United States may some day be in the position of desiring to participate in deliberations of the Council or other League organs in order to protect or further its own interests, yet find the door closed in view of its non-membership in the League. The juridical objections of Japan have not been settled; they were received with some sympathy by other Powers; they were definitely reserved; and they might be renewed at any time. There is growing resentment in Geneva at the apparent desire of the United States to eat its cake and have it at the same time, and a growing feeling that participation by the United States in world affairs should carry with it the same responsibility that rests upon other nations.

Meanwhile, American pro-Leaguers may well owe to the Japanese militarists a vote of thanks. They can at least note with satisfaction the extraordinary progress made since May, 1921, when Ambassador Harvey, speaking for the Harding-Hughes Administration, solemnly declared that the United States ''will not, I assure you, have anything whatsoever to do with the League or with any commission or committee appointed by it or responsible to it, directly or indirectly, openly or furtively;'' or, almost more notably, the progress made since May, 1931, when Secretary Stimson felt that the presence of even an observer at the International Labor Conference was impossible, since that ''would be tantamount to attending a meeting of the Council or Assembly of the League.'' If and when the World Court protocol is finally ratified, there will be further official, if only occasional, participation of the United States in sessions of both the Council and the Assembly.

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[106] Editorial, ''The Manchurian Crisis,'' in *The Nation*, vol. 133, p. 419 (Oct. 21, 1931). It may be worth noting that Mr. Oswald Garrison Villard also signed the letter to President Hoover mentioned above.

A Scale for the Measurement of Attitude toward Candidates for Elective Governmental Office. The approach of another presidential campaign should bring with it a renewal of plans for the study of the election process by a number of students of parties and of public opinion. An important instrument for use in any such investigation would be a scale for the measurement of attitude toward candidates for elective governmental office. The writer considers it timely, therefore, to release for possible use a candidate scale which has undergone considerable testing during the past four years. The psychophysical methods adapted to the use of scale construction by Professor Thurstone have been employed in the production of this scale. And since some questions have arisen among political scientists respecting the significance for their problems of the scaling methods of Professor Thurstone, the present report on experience gained from the construction and testing of this scale should both hold answer for some of these queries and present a product which might be put to use during the coming election campaign.

Four years ago, with the assistance of the members of the class in political parties at the University of Minnesota, a scale was constructed for the measurement of attitude toward Alfred E. Smith as a candidate for the presidency. Later in the same year, and with the assistance of members of a class in public opinion at Syracuse University, the Smith scale was employed in a canvass of a selected precinct in Syracuse, at two different times during the 1928 campaign. The first canvass was made during the summer, and the second during the last two weeks of the campaign. More recently, the Smith scale was revised so as to make it applicable to any candidate. The statements of the original Smith scale, so revised, were used in the construction of the present candidate scale, which was built with the assistance of members of a public opinion class in Syracuse University and members of a course in comparative parties at the University of Chicago. The Smith scale was based upon the judgments of "pro-Smith" and "anti-Smith" raters interviewed in Minnesota in 1928, whereas the candidate scale was based upon the judgments of "adherents of major parties" and "non-adherents of major parties," distinguished further as being interviewed in New York and in Illinois during the spring and summer of 1931. Thus the present scale[1] may be shown to transcend at least a period of nearly four years and such cultural areas as selected portions of Minnesota, New York, and Illinois. Exposition of the candidate scale, therefore, properly begins with some explanation of the construction and application of the original Smith scale.

The Smith scale was intended for use in measuring the degree of favor-

[1] See pp. 539-541 below.

able or unfavorable affect of individuals toward Alfred E. Smith as a candidate for the presidency. It was assumed that statements of opinion or endorsement of statements of opinion respecting the issue presented by Smith's candidacy might be taken as some indication of an individual's affect. The variations of affect sought to be described quantitatively by means of the scale were of three sorts: statements indicating more or less of favorable affect, statements indicating more or less of unfavorable affect, and neutral statements—those indicating attention to the issue, but exhibiting no degree of favor or disfavor. Speaking strictly, therefore, a scale of "unfavorable-favorable affect" is two scales joined end to end, with neutrality being the point of juncture between the two ranges of opposed measurable characteristics. Proceeding along the first scale in the direction of less and less of *unfavorable* affect, one would logically pass from the slightest degree of disfavor to zero of disfavor. Similarly, proceeding along the second scale in the direction of less and less of *favor,* one would logically pass from the slightest degree of favor to zero of favor. Zero of favor and zero of disfavor would be the logical point of juncture of the two scales. At such a point, there might be located opinion landmarks indicating attention to the issue, but nothing more by way of favor or disfavor. These would be neutral opinions, such as the neutrality arising from ignorance, lack of interest, bewilderment, cynicism, stoicism, or a sense of futility. On this basis of logic, the variations of affect sought to be measured by the Smith scale were considered to range from statements indicating an extremely unfavorable attitude toward Smith's candidacy to those indicating an extremely favorable attitude, passing gradually from the first extreme to the other through statements indicating less and less of disfavor, those indicating neutrality, and those indicating more and more of favor.

In collecting a list of opinions to serve as possible landmarks on a linear scale representing the selected attitude variable, the members of the class wrote out their own opinions of Alfred E. Smith's qualifications for the presidency. Also, they had many others, both within and without the university community, write out opinions; and they searched all sorts of printed matter for brief statements relating to Smith's candidacy. All told, about three hundred statements were gathered together. Editing reduced the collection, first to about one hundred and fifty statements, and later to sixty-eight. In this procedure, the standard cautions suggested by Professor Thurstone were continually borne in mind.[2] Furthermore, sev-

[2] L. L. Thurstone, "Attitudes Can Be Measured," 33 *American Journal of Sociology,* 544-545 (1927-28). See also L. L. Thurstone and E. J. Chave, *The Measurement of Attitude* (Chicago, 1929), pp. 22-23.

eral additional cautions were evolved and followed, which were later found to have an important bearing on construction of scales built for practical use in actual canvassing of a precinct or on construction of scales for the measuring of affect toward a candidate as distinguished from scales measuring affect toward a policy. Thus, care was taken to retain the actual wording of statements secured from persons outside the university community and to avoid so far as possible the language of the academic world. Much of the success in application of the scale in a canvass of a precinct early and late in the campaign of 1928 may be attributed to the fact that the statements of the final scale were in the language actually used by those considering Smith's candidacy as a practical matter.

A second additional point of caution is exceedingly important, since it proved to be vital to the attempted extension of the Thurstone scaling technique to the measurement of something about candidates rather than continuing it in its earliest application, the measurement of something about issues centering around a policy. Indeed, one might well be skeptical as to the possibility of measuring unfavorable-favorable affect toward a candidate. Affect toward a candidate may involve favor or disfavor respecting the person's abilities or disabilities which, according to the issue drawn by the candidacy, are to be given or refused the support of a particular official status. But it may be more than that. A candidate is often the symbol, the advocate, or the critic of numerous issues as to policy which may be considered involved in his candidacy, and particularly in his possible status as officer. Can one, therefore, isolate any single attitude variable centering in candidacy? Is not candidacy, of necessity, a focal point of numerous issues? Of course, this depends on what it is that one abstracts for measurement. If it is the *content* of the affect that is sought to be described, then no single linear measurement can suffice. The need for such description could be met only by a procedure which would disclose clusters of various items of content. If, however, one is interested in the varying degree of *favor* or *disfavor* toward the candidate as candidate, indications may be found of various degrees of these opposed characteristics, either in statements about the qualifications of the candidate or in statements made apropos of any policy related to the candidacy. Thus, the issue of religion is present in both of the following statements, yet raters discover different degrees of favor toward the candidate indicated in them: "Smith would not let religion interfere with his public duties," and "I am for Smith because he is a Catholic." Again, raters find a very similar degree of favor toward the candidate indicated in the following statement and in the first of the statements above, although such degree of favor is expressed apropos of different

matters associated with the candidacy: "Smith would not be influenced by Tammany in national affairs." Of course, a subject in endorsing a dozen statements might indicate one degree of favor apropos of one policy and a different degree apropos of some other. For such a situation, however, Professor Thurstone's conception of a "range of tolerance" has meaning and use. Were a sufficient variety of landmarks fixed on a candidate scale, however, they could be used to discover the content of the affect, including the combinations of policy apropos of which favor or disfavor was indicated.

With the foregoing analysis in mind, care was taken to include in the original and in the edited list of statements several supplementary series of varying opinions. Thus, one such series was included for each of the policies that was being discussed in connection with Smith's candidacy, and apropos of which favor or disfavor toward the candidate was being indicated. For example, one supplementary series contained statements which indicated varying degrees of unfavorable-favorable affect apropos of Smith's religion; another contained statements variously indicating favor or disfavor apropos of Smith's position on the Eighteenth Amendment; another series apropos of Smith's connections with Tammany; and so on. Stress of this feature should not be allowed to obscure the fact that the main series of statements collected for possible use as landmarks on the Smith scale comprised those which indicated various degrees of favor or disfavor toward Smith as candidate by wording couched in general terms, and without reference to any special policy indicated as the reason for the favor or the disfavor. The main series included also many statements which indicated some degree of unfavorable-favorable affect toward the candidate in terms of specific mention of some of the candidate's alleged abilities or disabilities as a person, or as one who might be given or refused the support of official status. It may, then, be said of the entire collection of statements that all indicated some degree of unfavorable-favorable affect toward *Smith as a candidate for the presidency*; and all began with the name "Smith" or stressed that name in the first phrases of a statement.

This tentative list of statements having been compiled and edited, they were treated by the methods of scaling and testing developed by Professor Thurstone. The particular method of scaling employed was that of "equally appearing intervals."[3] Sixty-eight statements of opinion were used in the scaling procedure and objective testing. Two hundred and fifty raters—students, faculty, and their friends outside the university community—provided the judgments respecting the more or less of un-

[3] See L. L. Thurstone and E. J. Chave, *The Measurement of Attitude.*

favorable-favorable affect indicated by the statements. These raters were selected so as to provide two opposed groups, one made up of those who favored Smith's candidacy, and the other composed of those who opposed his candidacy. The drive for the collection of ratings was stopped when two hundred and fifty were received; and that number would now seem to be adequate, particularly since Professor Thurstone has found, and later steps in this investigation have substantiated, that as few as fifty careful raters will yield practical stability of statement scale values. The division of raters turned out to be one hundred and forty "anti-Smith" and one hundred and ten "pro-Smith." Upon the completion of the scaling and testing procedure, it was found that thirty-nine of the sixty-eight statements remained for final inclusion in the Smith scale. It should be added that Professor Thurstone's original suggestion[4] for testing the relevance of statements to the selected attitude variable turned out to be of little or no aid in the objective editing of the scale. Later, his supplementary suggestion of a procedure for testing relevancy[5] was applied to the accepted thirty-nine statements, and they were found to have been validly included in the final scale. This result was undoubtedly due to the fact that application of all of his other testing procedures subjected the scale and its component statements to so severe a test that statements which might have been eliminated on the ground of irrelevancy were effectively excluded on other counts.

Our interest here is in the candidate scale as developed from the original rather than in the Smith scale itself. Consequently, the original scale need be presented only as a tested basis of later development. It is important only to report that the statements of the final Smith scale as scaled by "pro-Smith" raters and as scaled by "anti-Smith" raters yielded a Pearson correlation coëfficient of $+.9909 \pm .0019$.[6] The items involved in this correlation were the scale positions of the statements of the tested scale. The two series of values correlated were the scale positions assigned these statements by "pro-Smith" raters and the scale positions assigned them by "anti-Smith" raters, both series being classified by one-tenth of a degree intervals and the continuum of the scale being considered to extend over eleven degrees. It is needless to point out that so high a correlation in social data is unusual. It probably means that in a given community at a given time, with respect to an activity so common

[4] "Attitudes Can Be Measured," 33 *American Journal of Sociology*, 549-551 (1927-28).

[5] L. L. Thurstone and E. J. Chave, *The Measurement of Attitude*, pp. 45-56.

[6] The coëfficient of this correlation and succeeding ones is carried out to four places only for the purpose of differentiating them.

and established as forum and ballot conflict over candidacy for high public office, various verbalizations come to have standard and widely understood meaning. Individuals differing as much as Smith proponents and opponents may disagree in their own individual opinions as to Smith, but each understands the verbalizations of the other. They agree in ability to estimate the degree of unfavorable-favorable affect indicated by statements expressed by political friend or foe.

Further answer may be given at this point to the natural query as to whether the Thurstone scaling technique can be successfully extended to the measurement of something about candidates as well as used for the measurement of something about issues centering around a given policy. The answer comes from experience in scaling those statements which referred to issues such as the candidate's religion or position on the Eighteenth Amendment apropos of which an indication of various degrees of unfavorable-favorable affect toward the candidate were expressed. Of such statements, only those which were rated as indicating a moderate degree of unfavorable or of favorable affect held up under the test for ambiguity. All of the other statements of this sort which indicated an extreme degree of unfavorable or of favorable affect toward the candidate were judged by the raters to be highly ambiguous, and hence had to be discarded. Thus, the very moderateness of such a statement as "Smith's religion should not be urged in question of his qualification for the presidency" enabled the raters to agree as to its relative position on the scale. On the other hand, more extreme statements, such as "I am for Smith because he is a Catholic," or "I am against Smith because he is a Catholic," gave the raters considerable trouble as evidenced by the wide semi-interquartile range of the rating of these statements. Evidently the attendant reference to a matter of policy intruded so greatly, and with such brief wording, as to make it difficult to judge how favorable or unfavorable the one speaking might be toward the candidate. As contrasted with this result, statements made directly about the candidate, and not apropos of some particular matter of policy, were the ones, among the more extreme statements, that the raters found to be unambiguous. Thus the following statements yielded comparatively narrow semi-interquartile ranges of ratings: "Smith is perfectly fitted for the office of president of the United States" and "Absolutely nothing could convince me that Smith is qualified for the presidency." The necessary exclusion of the *extreme* statements made apropos of a particular policy connected with Smith's candidacy did not produce any gaps in the gamut of statements. Near all the points on the scale where statements had to be excluded for

this reason, others stated in more general terms and directly about the candidate were found to have been located by the raters. Consequently, if one were extremely favorable to Smith because he is a Catholic, one could still endorse such a combination of statements as the following: "Smith would not let religion interfere with his public duties," and "Smith is perfectly fitted for the office of president of the United States." Later experience in the application of the scale indicated that this possibility was of practical avail to subjects interviewed. Endorsement of the extreme statement, therefore, gave indication of the extreme affect toward Smith's candidacy, while endorsement of the moderate statement gave indication both of the range of affect toward the candidacy and of the content of that affect. Moreover, a subject's range of tolerance was not unduly extended by the necessity of marking combinations of statements to vote his complete opinion, because such combinations usually included other sorts of moderate statements as well.

As has been said, the final Smith scale was used in a personal canvass of a selected precinct in Syracuse early and late in the campaign of 1928. This application of the scale afforded experience some comments on which need to be presented here for a better understanding of the significance of the candidate scale. Although the Smith scale was built in Minnesota, its statements were well understood in New York. The subjects interviewed had no difficulty in catching the meaning of the several statements of the scale. Rather, the interviewer had difficulty in terminating an interview often prolonged by a subject's interest in political sermonizing, starting off from the several scale statements taken as texts. Moreover, the list of statements in the scale was found to include all positions actually taken by those interviewed. No subject found it impossible to ascertain his position satisfactorily by endorsement of some combination of the statements. Further, it was found that the printed scale served in several ways as an instrument of interview. Frequently the instrument served in making the initial contact with prospective subjects. As a focal point of attention, it enabled the interviewer to get across the ideas of "impartial straw ballot" and "scientific" straw ballot. Either of these notions, but particularly the latter, is seemingly helpful in overcoming suspicion and reticence. "Scientific" appears to be a word with which to conjure. A considerable number of persons interviewed thus became sufficiently interested to take the ballot into their own hands and mark it themselves. Many, however, would read the ballot carefully but would require the interviewer to mark it for them. Experience with other subjects points to the service of the printed scale as a schedule directing

observation and facilitating record of observations rather than as a questionnaire to be used in personal or impersonal contacts. These latter people would not hazard the formal recording of their opinions, either by direct or indirect procedures of ballot marking, but they would talk about Smith's candidacy, some of them openly at the door, others only if the interviewer would step inside out of hearing of neighbors. In such instances, the interviewer, having memorized the statements of the scale, was able orally and gradually to introduce the scale during the course of the interview, and to elicit responses clearly constituting endorsement or rejection of the several statements. These responses were then recorded formally immediately after the interview had ended.[7] In one respect, such interviews were the most satisfactory of all. The interviewer, thus, could be confident that the subject had understood the meaning of endorsed or rejected statements. This experience indicated that a carefully built scale can be made to cover practically all of a conversation in so far as that conversation is relevant to a selected attitude variable. Outside of the obvious and expected digressions in the oral interview, the chief departure from the line of attempted direction of the conversation was the insistence upon expression of a corresponding unfavorable-favorable affect toward Smith's opponents. This was the origin of the idea that the Smith scale might be made the basis of a more applicable scale for the measurement of affect toward each of a group of candidates competing for a given public office.

In building the candidate scale, the writer began with a tentative list of statements paraphrasing the tested statements of the scale on the Smith candidacy. Thus, the personal pronouns "he," "his," and "him" were substituted for the name "Smith" in all of the statements. If the candidate scale were prepared as a sheaf of ballots, one ballot for each candidate, the name of the candidate at the head of a given ballot would serve as the antecedent of all the personal pronouns in the statements on that ballot form. If the candidate scale were prepared as a blanket ballot, however, each statement could be preceded by as many voting squares in which crosses indicating endorsement could be placed as there were competing candidates being considered. Each statement could be regarded as having possible application to any one of the candidates. These voting squares could be arranged in candidate columns, each column being headed by the name of one of the candidates. By such an arrangement, it would be clear which candidate's name was being regarded as the antecedent of the personal pronouns in a statement endorsed by the entering of a

[7] Of course, complete refusal of interview occurred also, but mostly for reasons that would exist whether or not a scale were used.

cross in the square opposite the statement and in a particular candidate's column.[8]

Paraphrasing done to secure conformity with this major change includes the following alterations. The term "Democratic party" was changed to "his party." "The Republicans" or "Republican party" was restated as "his opponents." "Tammany" or "Tammany man" was replaced by the words "the machine," "the local machine," or "a machine man," as the context required. And reference to Smith's conduct in the "governorship of New York" was restated as reference to conduct in "other office."

Many of the original statements of the Smith scale referred to "the office" rather than to "the presidency." Where that was not the case, the change was made. That is, the change was made in all cases but one, i.e., statement 25. That statement would be meaningless apart from reference to the presidency. Consequently, it could be retained in all candidate scales used on presidential candidacies, but would have to be omitted if the scale were pointed toward candidacies for any other office. In this connection, it may be pointed out that statements 34, 35, and 44 also would have to be omitted if the scale were used in connection with candidacies for the office of mayor, since their phrasing has no reference to candidacy for local urban office. Of these three statements, number 34 could be used in connection with candidacies for national legislative office, but not meaningfully in connection with any state or local office; while statements 35 and 44 could be used in connection with candidacies for any national or state office or for local rural office, but not with significant

[8] The following illustrates the possible arrangement of voting squares and scale statements on a candidate scale prepared as a blanket ballot:

Richard Roe (Rep.)	John Doe (Dem.)	William Moe (Soc.)	
☐	☐	☐	1. He is the best man we could find for the office today.
☐	☐	☐	2. He is not as big a man as the other candidates.
☐	☐	☐	3. He has done very well in other offices and might repeat in the presidency.
☐	☐	☐	4. He lacks the necessary capability and sound judgment of a statesman.
☐	☐	☐	5. There is so much in favor of him and so much against him that it is difficult to decide.

reference to candidacies for local urban office. Other than as indicated, all the statements of the candidate scale have been so paraphrased as to be applicable to candidacies for any elective governmental office. The only restriction is that the scale be used to compare at any time only those candidates who are rivals for the same office. This suggested transcendence of a particular office was tested by presenting the raters with several paraphrasings of selected statements,[9] thus making them pointed in the one case to the "presidency," in another to the "governorship," in another to the "office of mayor," and in still another to "legislative office." The raters were unable to distinguish any difference in the degree of unfavorable-favorable affect toward a candidate indicated by statements differing only as respects the office sought, provided all the statements were to be considered as applicable at any one time only to rivals for the same office.

The varieties of paraphrasing explained thus far adapted original statements of the Smith scale for general use in a candidate scale. The varieties next to be explained are those used for the addition of statements closely resembling the wording of some tested statement of the Smith scale, but needed as possible reactions to candidates other than Alfred E. Smith. This need was occasioned in part by the fact that some degree of unfavorable-favorable affect had been indicated by a statement in the Smith scale made apropos of Smith's symbolization of one side of an issue of policy, such as the "wet" side of the prohibition question. Naturally, there would have been no point in including in a Smith scale such a statement as "Smith is unacceptable because he would be *too strict* in the enforcement of the prohibition laws." Such a statement would be needed, however, for some other possible candidate; and it could be written by merely substituting the words "too strict" for the words "too lax" in one of the original statements of the Smith scale. Similarly, the phrase "conservative and safe" was substituted for the word "progressive" to add another needed statement. Other instances of this sort are listed in statements 13 and 18, 16 and 24, 8 and 23, and 20 and 33.

Perhaps it may have occurred to the reader to ask how it can be that the addition of a single contrasting statement might serve to provide all degrees of favorable or unfavorable response apropos of that particular policy connected with the candidacy. The answer has already been given. All of these statements are moderate ones. Had they been drafted in extreme form, they would doubtless have been ruled out by the raters on the count of ambiguity. Should a subject desire to express an extreme degree of favor or disfavor toward a candidate apropos of some particular policy associated with the candidacy, he could check one of these moderate

[9] Statements 3, 6, 29, and 40.

statements indicating the content of his favor or disfavor and then check an extreme general statement to give vent to the extreme degree of his affect.

This possibility accounts, also, for the inclusion of the last four highly flexible statements of the scale, i.e., 54, 55, 56, and 57. It will be noted that the verbalization of statement 54 is practically identical with that of statement 35, that of statement 56 with that of 44, and that of statement 57 with statement 38. Statement 55 is like a statement tested for the Smith scale but discarded from that scale because events of the campaign made it contrary to fact, and thus unusable as a possible response respecting Smith. When these statements were submitted to the raters, the suggestion was made that the blank in statement 54 be considered to have been filled by such a word as "business," "labor," or other interests; the blank in statement 55 to have been filled by such a word as "prohibition;" and the blanks in statements 56 and 57 by the word "tariff." The original tested statements had expressed favor or disfavor apropos of similar reference to either the "agricultural interests" or the "Eighteenth Amendment." In all of these statements, the verbalization is moderate. Each pair of statements, the original and the paraphrase, are alike in all but the word indicating the policy apropos of which the degree of unfavorable-favorable affect is indicated. The raters gave each of a pair of these statements practically the same scale position. Consequently it was thought that the form of verbalization could safely be used to provide further flexibility as respects matters apropos of which favorable or unfavorable affect could be indicated. Comments to follow upon the results of the testing of the candidate scale give considerable basis for this confidence.

The origin of six statements of the candidate scale remains to be explained. They are not paraphrased from statements originally in the Smith scale, but are additions. They are of two sorts. One sort, such as "He deserves another term," comprises statements entirely inapplicable to Smith, but needed for possible response respecting some other candidate. The other sort consists of statements included to fill obvious gaps in the original scale, if one is to consider the general run of elections. Possibly they should have been thought of for the Smith scale. At least, their inclusion was suggested by a review of expressions frequently heard in other campaigns. An example is the statement, "I am for him because he is independent." The successful inclusion of these statements shows the further adaptability of the candidate scale. The rating of statements, of course, is a process of comparison. Addition of statements changes the comparisons. And the addition of many new statements would unstabilize the whole series of scale position assignments. As will be noted

from the report on the testing of the candidate scale, however, this result did not follow from the addition of these few statements, nor from the addition of many closely paraphrased statements.[10] This gives basis to the suggestion that the list of statements now presented in the candidate scale may be taken as a tested nucleus, needing only slight addition and elimination to accomplish adaptation to each succeeding election. Certainly the additions here made did not upset the original scaling of the Smith statements. The completeness and applicability of the list thus elaborated can be appreciated by a perusal of the collection of statements with some particular candidate other than Alfred E. Smith in mind. The list should permit most people to indicate their unfavorable-favorable affect toward almost any candidate. Surely, if not entirely complete, the statements are sufficiently varied to afford a close approximation of such affect.

The tentative list of statements for the candidate scale so prepared was presented to two hundred judges for rating. One hundred of the raters were adherents of major political parties. The remaining one hundred were non-adherents of major parties. That is to say, they were adherents of minor parties, independents, or neutrals as respects party politics. Of the two hundred raters, furthermore, one hundred and fifty were secured in Syracuse by a class in public opinion during the months of April and May, 1931. This number comprised students, faculty, and persons outside of the university community. The remaining fifty were secured in Chicago during July, 1931, by members of a class in comparative parties in the University of Chicago. As the correlation of these several series of ratings will show, fifty raters who understand the task assigned to them are a sufficient number to achieve fair stability of ratings.

The fifty-seven statements of the final candidate scale are those which held up under all the standard testing procedures described by Professor Thurstone. The resulting stability of the scaling of these statements may be shown by the following correlations. The scale positions of the candidate statements as determined by the adherents of major parties and as determined by the non-adherents of major parties were correlated in the same manner as the correlation, reported above, of the two scalings of the Smith statements. The Pearson coëfficient of this correlation was $+.9967 \pm .0006$. The coëfficient of a similar correlation of the scale positions of the candidate statements as determined by the ratings secured in Syracuse and as determined by the ratings secured in Chicago was $+.9972 \pm .0005$. All but six of the fifty-seven candidate statements were paraphrased directly from some one of the thirty-nine statements

[10] For further caution, see p. 544 below.

of the Smith scale. The scaling of these fifty-one statements of the candidate scale as determined by the two hundred Syracuse and Chicago raters was correlated with the corresponding scale positions of the originals of the Smith scale as determined by the two hundred and fifty Minnesota raters. The Pearson coëfficient of this correlation was + .9914 ±.0015. These correlations are exceedingly high for social data. They should give one considerable confidence in the stability of the tested landmarks of the candidate scale. Probably what the high positive correlations mean is that communities as diverse as those centering about the University of Minnesota, Syracuse University, and the University of Chicago are in fact a single cultural area as respects an activity so common and established as forum and ballot conflict over candidacy for public office. In such an area, verbalizations come to have standard and widely understood meaning. Individuals differing as much as partisans in the dramatic Smith campaign and differing groups thinking of any sort of campaign but that of Smith may disagree as to their own individual opinions respecting partisan affiliation, but each understands the verbalization of the other. They agree in ability to estimate the degree of unfavorable-favorable affect indicated by statements expressed by participants and neutrals in a rather standardized activity. But it means more than that. This stability is not the characteristic of a brief moment. It obtained for a period extending from the spring of 1928 to the summer of 1931, i.e., somewhat over three years. And the great contrast of campaigns occurring or impending during that period would seem to give foundation to a confidence that the stability might be found to obtain for other and even longer periods, probably for the period in which the fundamental stateways of the area remain substantially the same. This would appear to be one of the important findings of this study.

Following is the final list of statements affording tested landmarks on a candidate scale. The numbers preceding the statements are arbitrary, serving the purpose of ready identification. They serve also to provide a random order of the statements. In the parentheses following each statement are two figures. The first is the scale position of the statement as determined by the two hundred raters, and the second is the coëfficient of ambiguity of the statement, or the semi-interquartile range of the ratings of the two hundred raters. To save confusion, the first will be designated as "S.P." and the second as "A."

1. He is the best man we could find for the office today. (S.P., 9.8; A., 1.9)
2. He is not as big a man as the other candidates. (S.P., 3.8; A., 2.1)
3. He has done very well in other offices, and might repeat in the presidency. (S.P., 7.7; A., 2.0)
4. He lacks the necessary capability and sound judgment of a statesman. (S.P., 1.8; A., 2.0)

5. There is so much in favor of him and so much against him that it is difficult to decide. (S.P., 5.5; A., 1.1)
6. He has executive ability and business insight, and that is what the presidency needs. (S.P., 9.4; A., 1.6)
7. Absolutely nothing could convince me that he is qualified for the office. (S.P., 0.7; A., 1.3)
8. He would not let his previous business interests interfere with his public duties. (S.P., 8.1; A., 2.4)
9. He is poorly qualified because training in his party is no recommendation. (S.P., 3.0; A., 2.3)
10. What difference does it make whether he or someone else is elected? Affairs will go on the same as before. (S.P., 5.4; A., 1.1)
11. He deserves another term. (S.P., 7.1; A., 1.7)
12. I am against him because a machine man would be bound to give us corrupt government. (S.P., 1.8; A., 2.1)
13. He is a little too conservative. (S.P., 4.4; A., 1.7)
14. He has a forceful personality, and so would give strong party leadership. (S.P., 8.7; A., 2.1)
15. His religion should not be urged in question of his qualification for the office. (S.P., 6.2; A., 2.2.)
16. He has grown up among the wealthy, and hence does not have the proper background for the office. (S.P., 3.8; A., 2.1)
17. He has evidenced his power to overcome obstacles by his rise from obscure position to eminence. (S.P., 8.5; A., 2.3)
18. He is a little too radical. (S.P., 4.3; A., 1.7)
19. He is desirable because he is progressive. (S.P., 8.5; A., 2.2)
20. With his background of religion and education, he could not be independent in his thinking. (S.P., 3.2; A., 2.2)
21. His past record is good enough to warrant his serious consideration for the office. (S.P., 8.2; A., 1.9)
22. He is unacceptable because he would be too lax in the enforcement of the prohibition laws. (S.P., 2.9; A., 2.3)
23. He would not let religion interfere with his public duties. (S.P., 7.8; A., 2.4)
24. He has come up from the slums, and hence does not have the proper background for the office. (S.P., 3.7; A., 2.4)
25. As president, he would do no worse in international affairs than the present administration has done. (S.P., 5.9; A., 1.9)
26. He is acceptable because he will uphold the prohibition laws. (S.P., 7.2; A., 2.0)
27. He is the poorest of the available candidates. (S.P., 0.8; A., 1.5)
28. Absolutely nothing could convince me that he is not the very best candidate for the office. (S.P., 10.1; A., 1.7)
29. He may have done well in other offices, but the presidency is a different matter. (S.P., 4.2; A., 2.5)
30. We might as well try him and his party, for his opponents have not done so very well. (S.P., 5.8; A. 1.7)
31. I am for him because he is independent. (S.P., 8.5; A., 2.1)
32. I really don't care whether it is he or someone else who is elected. (S.P., 5.4; A., 1.1)
33. With his background of business interests, he could not be independent in his thinking. (S.P., 3.2; A., 2.0)

34. He would not be influenced by the local machine in national affairs. (S.P., 8.3; A., 2.2.)
35. He is not qualified to represent agricultural interests which sadly need consideration. (S.P., 3.0; A., 1.9)
36. He is a machine man, and that implies that his qualities and methods are nothing to be proud of. (S.P., 2.6; A., 2.1)
37. As a representative of his party, he would have the coöperation and support of the most able leaders of the country. (S.P., 7.8; A., 2.7)
38. He is the best hope for a much needed reconsideration of the Eighteenth Amendment. (S.P., 8.6; A., 2.2)
39. I am against him because he is corrupt. (S.P., 0.9; A., 1.5)
40. He is perfectly fitted for the office. (S.P., 10.3; A., 1.4)
41. He understands the needs of the general public. (S.P., 8.4; A., 2.8)
42. He is desirable because he is conservative and safe. (S.P., 7.8; A., 2.4)
43. He is unacceptable because he is a representative of the rough element and is not an educated man. (S.P., 2.9; A., 2.7)
44. The agricultural problem would secure as good a hearing from him and his party as it is getting from his opponents, if not better. (S.P., 6.8; A., 1.8)
45. I trust him because he is honest. (S.P., 8.4; A., 2.2)
46. He is controlled by the machine, a band of corrupt politicians. (S.P., 1.2; A., 1.6)
47. He is merely the best his party has to offer. (S.P., 5.5; A., 2.9)
48. He is merely an able politician. (S.P., 4.8; A., 3.0)
49. There is very little danger that he would be influenced by the machine. (S.P., 7.8; A., 2.1)
50. He is unacceptable because he would be too strict in the enforcement of the prohibition laws. (S.P., 3.4; A., 2.9)
51. He may be all right, but I don't know much about him. (S.P., 5.3; A., 1.4)
52. His knowledge of business would make for efficiency in government. (S.P., 8.4; A., 2.2)
53. He is a sly politician, a man you could not trust. (S.P., 1.1; A., 1.8)
54. He is not qualified to represent ————————* interests which sadly need consideration. (S.P., 2.7; A., 2.0)
55. He is a straddler, as is shown by his ill-defined stand on ————————*. (S.P., 2.8; A., 2.0)
56. The ————————* problem would secure as good a hearing from him and his party as it is getting from his opponents, if not better. (S.P., 6.8; A., 2.0)
57. He is the best hope for a much needed reconsideration of the ————————* problem. (S.P., 8.5; A., 2.3)

(*Write in any interest, issue, or problem of importance to you.)

The scale positions of the statements in this list were derived by the method of "equally appearing intervals," the raters having been asked to consider the possible distribution of statements throughout a continuum of eleven degrees. Logically, therefore, the point of strict neutrality would be a scale position of 5.5. Inspection of the statements scaled near this point, however, will show that the half-degree interval, 5.3 to 5.7 inclusive, may be considered the range of distinctly neutral statements. Beginning, then, with the statement scaling at 5.8, a slight amount of favorable affect may be distinguished; and proceeding in that

direction along the scale, the degree of favorable affect appears to increase until the extreme landmark is reached at 10.3. Proceeding in the other direction along the scale, and starting from the lower limit of the neutral range, increasing degrees of unfavorable affect may be distinguished until the extreme landmark is reached at 0.7. It would add nothing to the meaning of the scale to mark off arbitrary points at which one passes from moderate to extreme favor or disfavor. Indeed it is a difference of degree rather than of kind. One should note, however, that in a process of "breaking heads" in conflict over the issue as to who is to be given the status of governmental officer, verbalizations more extreme than those scaled at 0.7 and at 10.3 might be encountered. But, for the treatment of data presented by a process of conflict pointed toward "counting heads" as the accepted mode of settling such an issue, these extreme statements now on the scale would appear to suffice.

The statements as given above are adapted for use on candidacies for the presidency. As has been said, they may readily and validly be adapted for use on candidacies for the governorship, or for the office of mayor as well.

The suggestion has also been made that the "straw ballot" carrying the scale may be a blanket ballot on which each statement would be preceded by as many voting squares as there are candidates for a given office being considered, in which squares crosses indicating endorsement could be entered by subjects interviewed. These voting squares would be arranged in candidate columns, each headed by the name of one of the candidates. Directions on such a form might be somewhat as follows:

DIRECTIONS: Listed below are various opinions about the qualifications of a candidate for the presidency of the United States. Please indicate your opinion of each of the candidates named below by putting a cross, (thus ☒), in the appropriate squares. That is to say, the squares under a candidate's name and opposite the statements which *you believe to be true of that candidate.*

Please vote *every* candidate and consider *every* statement as having possible application to *each* candidate; but vote a candidate for *only those statements which you believe to be true of him.*

If desired, however, the "straw ballot" carrying the scale could be prepared in the form of a sheaf of ballots, each ballot of a sheaf being headed by the name of only one candidate and containing the entire list of statements as being applicable to that candidate, and the entire sheaf being made up of one ballot for each of the competing candidates. The directions on each of such ballots might be somewhat as follows:

DIRECTIONS: Listed below are various opinions about the qualifications of a candidate for the presidency of the United States. Please indicate your opinion of John Doe as a candidate for the presidency by putting a cross,

(thus ☒), in the squares preceding each of the statements which *you believe to be true of John Doe.*

Either of these forms, if desired, might be preceded by a customary sort of straw ballot headed, "Old form permitting expression of only one choice among several opposed opinions." The scale form could then be headed, "New form permitting more complete expression of many measureable shades of opinion." The older form could be stated somewhat as follows: "Of the following candidates for president of the United States in 1932, I am for: (Put a cross, thus ☒, in square opposite candidate you favor. Mark in one square only). . . . My national politics in 1928 was: (Put a cross ☒ in appropriate square)."

The investigator may desire to save the subject's patience by some elimination of statements from the scale. This is possible. Experience in precinct canvassing, however, would afford the suggestion that if too many statements are eliminated, one will encounter rebellion, because the subject cannot find a combination of statements which closely represents his opinion. The opportunity for adequate and complete expression of opinion is of primary importance in some investigations; while in any inquiry such opportunity may intrigue rather than deter a subject responding to an interviewer. Certainly, if the list is to serve as a schedule for the guidance and recording of oral interviews rather than as a questionnaire, all statements should be retained. In case some elimination is considered necessary, those statements having greatest ambiguity and least application to the debate occasioned by a particular election contest should be the first to be omitted.

This comment suggests a point that should be added respecting the ambiguity of the statements in the scale. The coëfficients of ambiguity for a few of these statements are slightly higher than the similar coëfficients of those which Professor Thurstone has included in his several scales. The differences may not mean that the few candidate statements referred to are really more ambiguous than those in the Thurstone scales. The difference in the coëfficients would appear to be due rather to a difference in procedure. Professor Thurstone has followed the practice of culling out and omitting what he calls the ratings of "erratic" raters. This practice, naturally, would decrease the coëfficients of ambiguity. In building the candidate scale, care has been taken to avoid any sort of arbitrary culling. Use was made of any rating submitted that evidenced actual judgment upon a comparison of all statements. This was done for two reasons. First, culling of ratings as a practice to be followed generally by builders of scales is dangerous. Where it is employed, those who may use the scales would properly have less confidence in the meaning of the scale. What is erratic to one might be considered the best

of logic to another; and the border-line between clear cases and cases less clear is difficult to draw. Second, the scale may be used for selective endorsement by subjects, among whose number there may be erratic subjects. Consequently, it is worth something to know the full possibility of the ambiguity of the statements. With this explanation, it would seem that the coëfficients of ambiguity for the great bulk of the statements of the candidate scale should afford reason for considerable confidence on the part of any who might apply it.

Finally, it should be stressed that the statements of the candidate scale have been collected and tested during the period 1928 to 1932. Campaigns of a later period, or for offices of particular localities, may occasion verbalizations other than those now included. A reading of the scale with some particular candidate in mind should convince one that the statements include a very large nucleus of what may be said about a given candidate. This nucleus may have to be supplemented from time to time, or for particular occasions. To the rather limited extent that this is necessary, the possibility of such amendment has been successfully tested. Suppose ten new statements were needed for some later application. The investigator could procure new ratings of the original and any supplementary statements, taking care that raters worked on the original statements first and the supplementary statements last, and taking care also that the original statements composed the great majority of the list. Such a new rating would not only serve to adapt the scale to new situations, but give further test of the continuing stability of the present ratings. New ratings and scaling, however, would need to be according to the procedure known as that of equally appearing intervals; for that was the procedure employed in the scaling of the statements of the present scale.

Important as it may be that the scale be open to continued adaptation and testing, it is even more important to stress the need of inquiry during the current campaign that should make use of a rather stable and tested instrument. It is hoped that a number of students of political parties and of public opinion will freely make use of the instrument here reported.

HERMAN C. BEYLE.

Syracuse University.

NEWS AND NOTES

Personal and Miscellaneous

Compiled by the Managing Editor

Professor Gaetano Salvemini, of Italy, will be visiting professor of international relations in the Graduate School of Yale University next year, and will give a course on the political evolution of Italy and one on political thought.

Dr. Walter F. Dodd, who has been professor of law at Yale, has resigned that position, and has been appointed research associate in law with the rank of professor.

Professor Graham H. Stuart, of Stanford University, will give courses on international law and relations during the coming summer session of the University of Washington.

Professor Rinehart J. Swenson has been made chairman of the department of government in Washington Square College, New York University, in succession to Professor Rufus D. Smith, who recently became dean of the College.

Professor Henry R. Spencer, of Ohio State University, will be the visiting professor in political science at Stanford University during the summer quarter, and Professor E. A. Helms, of the same institution, will teach during the summer quarter at George Peabody College, Nashville.

Professor Ben A. Arneson, of Ohio Wesleyan University, will offer courses in constitutional law and British politics during the first term of the summer quarter at Ohio State University.

Professor Thomas S. Barclay, of Stanford University, spent the winter months in research work at the Brookings Institution, Washington, D.C.

Professor Hugh McDowell Clokie, of Rutgers University, has been appointed assistant professor of political science at Stanford University.

Dr. John R. Mez will be in charge of the course in political science at the Portland summer session of the University of Oregon.

Mr. C. Edwin Davis, formerly Cowles fellow in government at Yale University, has been appointed full-time instructor in American government, and will conduct sophomore courses in both the Sheffield Scientific School and Yale College.

Mr. Cecil H. Tolbert, Cowles fellow at Yale University, has accepted an appointment at the Institute for Government Research of the Brookings Institution, Washington, D.C., for the year 1932-33 to do research on presidential investigating commissions.

Dr. A. B. Butts, vice-president and professor of government at Mississippi State College (formerly Mississippi A. and M. College) will teach in both terms of the 1932 summer quarter at the University of Virginia. In addition to a course in state government in each term, he will give a graduate course on government and business in the first term and one on administrative law in the second term.

Professor E. Pendleton Herring has received a Milton Fund grant at Harvard University to enable him to investigate the relations between certain private interests and federal administrative authorities at Washington.

In the report of the Policy Committee of the American Political Science Association, published in the February REVIEW, it was erroneously stated that Professor John A. Fairlie had been added to the Subcommittee on Personnel. His appointment was, instead, to the Subcommittee on Publications.

The bureau of municipal affairs at Norwich University, directed by Professor K. R. B. Flint, has completed its first decade of work. An interesting account of its varied services to the state in which it is situated was printed in the *Boston Evening Transcript* of March 21.

The jurisprudence section of the Stolberg Wernigerode Library, which has been one of the most important privately owned collections in Germany, has been purchased by the Harvard University Library and will be distributed among the College Library, the Law Library, and the Business Library. Some twenty thousand volumes are involved.

The fourth centenary of the lectures "De Indis" and "De Jure Belli" by Francisco de Vitoria was celebrated at the Catholic University of America on May 1 in a public meeting at which Professor Herbert Wright spoke on "Vitoria and the State" and Dr. James Brown Scott on "Vitoria and International Law."

Professor Jerome G. Kerwin is representing the political science department on the committee which is formulating the second-year social science course in connection with the new instructional plan of the University of Chicago. Mr. Kerwin also participated in drafting the freshman social science course, and is lecturing in both the freshman and sophomore courses.

Dr. M. M. Chambers, recently on temporary appointment as chairman of the department of social science in the Teachers College of Kansas City, will teach in the department of school administration at Ohio State University during the 1932 summer quarter. He will offer two graduate courses, one on the legal basis of school administration and one on the administration of national systems of education.

Mr. Chester D. Pugsley, of Peekskill, New York, has agreed to finance institutes of international affairs during the coming year in a number of foreign capitals, including those of Austria, Greece, Bulgaria, Lithuania, Finland, Norway, Denmark, the Netherlands, Spain, and Japan.

Professor Walter R. Sharp, who for three years has been fellowships and grants-in-aid secretary of the Social Science Research Council, will return to the University of Wisconsin in the fall as full professor of political science. Dr. Llewellyn Pfankuchen, of Duke University, has been appointed instructor in political science in the same institution.

A conference on Nebraska local government, arranged by Professor J. P. Senning and held at the University of Nebraska during the first week of March, was participated in by members of the political science staff of the University and by Professors Kirk H. Porter, of the State University of Iowa, W. L. Bradshaw, of the University of Missouri, and H. H. Trachsell, of the University of South Dakota.

The third annual meeting of the Conference on the Teaching of the Social Sciences was held at Northwestern University on March 25 and 26. Representatives from colleges and universities in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Ohio, and Wisconsin were in attendance. The political science round table was devoted to the discussion of a program for major students in political science.

Under the auspices of the Social Science Research Council, and with the aid of a grant from the Carnegie Corporation, Dr. Charles A. Beard is directing a study of "the idea of national interest." The inquiry takes note of the fact that there is an increasing use of the term "national interest" in the formulation of American foreign policy, as a justification or

foundation for diplomatic decision and action, in general and in detail, and will explore the meaning of the term as employed by those who use it, and the realities covered by it. In short, it is a search for the realistic pivot on which American diplomacy is supposed to turn. At the outset, Dr. Beard will be assisted by Mr. John D. Lewis, of the department of political science at the University of Wisconsin.

Undergraduate courses in international relations preparatory for the foreign service of either the national government or private business have been arranged to begin next term at Yale University under the direction of Professor Nicholas J. Spykman, who has returned after a year in the Orient. Special lecturers in international relations for the current year included Dr. David Mitrany, of London, who spoke on the progress of international government; and Professor Herbert Kraus, of the University of Göttingen, who gave a series on the progress of international life. Professor Charles P. Howland has returned from an Oriental mission and will resume his seminar in diplomacy next autumn.

On May 6, the department of political science of the University of Washington, with the coöperation of the departments of political science of the State College of Washington and Whitman College, held a state-wide conference on the subject of the need for a revision of the state constitution of Washington. A grant was made by the Committee on Policy of the American Political Science Association to make possible the holding of the conference. Professors Chester C. Maxey, of Whitman College, and Claudius O. Johnson, of the State College of Washington, took a prominent part in the conference, which was directed by Professor Joseph P. Harris, of the University of Washington.

The second annual conference of the Political Science Association of Pennsylvania, held on May 6-7, at Harrisburg, was devoted to somewhat extensive discussion of "problems of financial administration in a day of economic distress." A dinner meeting was addressed by Dr. Frederick F. Blachly, of the Brookings Institution, on some modern French and German experience in handling certain financial problems. Under the leadership of the secretary, Professor W. Brooke Graves, of Temple University, there was discussion not only of the future field of usefulness of the present Association, but also of a proposal for a Northeastern Political Science Association sponsored by a committee headed by Professor Charles Hodges, of New York University.

Among round tables planned for the session of the Institute of Public Affairs to be held at the University of Virginia July 3-16 are one on

municipal administration, conducted by Professor Thomas H. Reed, of the University of Michigan; one on county government, conducted by Dr. Robert H. Tucker, chairman of the Virginia Commission on County Government; and one on our Latin American relations, led by Professor C. H. Haring, of Harvard University. The central theme of the general addresses will be the responsibility of government in times of economic stress.

At an Institute of Justice held on April 25-30 at the University of Chattanooga, round tables on jury trial and on second trial for the same offense were conducted by former Dean William E. Mikell, of the University of Pennsylvania Law School, and on problems of crime by Professor Charles A. Ellwood, of Duke University. General addresses were delivered by Dean Roscoe Pound, Mr. Frank J. Loesch, and others.

American scholars who will participate in the tenth annual meeting of the Academy of International Law at The Hague during the coming July and August, with the subjects on which they will lecture, include Professor Ellery C. Stowell, of the American University, on the theory and practice of intervention; Professor Edwin D. Dickinson, of the University of Michigan, on the interpretation and application of international law in Anglo-Saxon countries; and Dr. James Brown Scott, of the Carnegie Endowment for International Peace, on the principle of juridical equality in international relations.

At the suggestion of the Social Science Research Council's committee on public administration, an effort has been made during the last fifteen months to secure the coöperation of one or more libraries in each of the states for the purpose of extending the collection of public documents and related materials. At the New Orleans convention of the American Library Association, a report was made by Professor Leonard D. White, of the University of Chicago, showing the designation of one or more libraries in each of forty-four states. Plans are on foot for extending the number of libraries in some of the states, and for securing the coöperation of libraries in the larger metropolitan and urban centers, the latter for the particular purpose of collecting municipal documents.

Plans have been announced for the establishment at Tufts College of a school of law and diplomacy on the basis of a bequest of a million dollars by Dr. Austin B. Fletcher, of New York City. Under a ruling of the supreme court of Massachusetts, the College is not required to create a law school of the usual type; and, with the coöperation of Harvard University, it proposes to establish a school whose principal aim will be to

prepare students for the foreign service by training them in international law, international relations, international economics, and diplomatic history. Dean Roscoe Pound, of the Harvard Law School, is expected to head the executive committee which will organize the school's curriculum.

In coöperation with Yale University, the American Law Institute will continue the nation-wide study of the administration of justice started by these agencies under the auspices of the Wickersham Commission. From a contingent grant made by one of the foundations, the sum of $10,000 has been released to cover the cost of tabulating the data collected during the life-time of the Commission, and the work is now going on at the Institute of Human Relations of Yale University.

The twenty-sixth annual meeting of the American Society of International Law was held at Washington on April 28-30. The meeting opened with the presidential address by Dr. James Brown Scott on "A Single Standard of Morality for the Individual and the State," and the sessions were devoted mainly to various aspects of treaties and treaty-making, with papers by Professors E. T. Williams, Harold S. Quigley, Kenneth Colegrove, Quincy Wright, Joseph P. Chamberlain, President William C. Dennis, Mr. Charles H. Butler, Mr. John V. A. MacMurray, and others. Two sessions were devoted to the subjects of the international law of air navigation and international loans and international law, with the principal papers by Professors George G. Wilson and Edwin M. Borchard, respectively.

The ninth institute under the Norman Wait Harris Memorial Foundation took place at the University of Chicago on January 27-31, 1932, on the subject of Gold and Monetary Stabilization. Previous institutes under this foundation have been held in the summer. Public lectures were given by Jacob Viner, professor of economics at the University of Chicago; H. Parker Willis, former secretary of the Federal Reserve Board, and now professor of banking, Columbia University; Gottfried Haberler, of the University of Vienna, and visiting professor at Harvard University; and Lionel D. Edie, economist of the Industrial Research Corporation. Thirty economists, from all parts of the United States and abroad, gathered at round table meetings during the Institute. Many of the sessions took a practical turn, and twenty of the economists present subscribed their names to a series of recommendations dealing with federal reserve bank policy, the tariff, and inter-governmental debts. The date and subject of the 1933 institute have not yet been decided upon.

A Mid-West Police Conference was held in Evanston on February 15-19 under the auspices of the political science department of Northwestern

University, with the coöperation of the police department of Evanston. Professor A. R. Hatton presided. Among the speakers were Hon. C. Wayland Brooks, assistant state's attorney of Cook county, Illinois; Professor Andrew A. Bruce, Northwestern University Law School; Louis Brownlow, director of the Public Administration Clearing House; Herman N. Bundeson, health commissioner of Chicago; Hon. George E. Q. Johnson, United States district attorney; and John H. Wigmore, dean emeritus of Northwestern University Law School. Chiefs of police departments in the Chicago area, as well as other experts, were in attendance.

The eighth annual awards of research fellowships by the Social Science Research Council were announced in March. From a total of 113 applications, thirty new fellows were appointed for 1932-33, and one extension of a 1931-32 fellowship was made. The total amount involved in these awards approximated $86,000. Since the inception of the fellowship program in 1925, a total of 169 persons have been awarded research fellowships, with stipends aggregating over $521,000. Awards for 1932-33 in political science, or for projects of particular interest to political scientists, were as follows: (1) Karl R. Bopp, University of Missouri, "Governmental Control and Finance in Germany;" (2) Arthur O. Dahlberg, University of Wisconsin, "International Economic Relations;" (3) Anna C. Davis, University of Wisconsin, "The Judiciary and the Rise of Capitalism in England;" (4) Marshal E. Dimock, University of California at Los Angeles, "The Commerce Courts of France and England;" (5) George F. Howe, University of Cincinnati, "European Participation in the Beginnings of Pan-Americanism;" and (6) Harvey Walker, Ohio State University, "The Training of Public Employees After Entrance into Public Service in Great Britain."

The twelfth annual session of the Williamstown Institute of Politics will open on July 28 and continue until August 25. The program has been planned mainly to "illuminate the details of questions raised by the Hoover-Laval conversations and the State Department's attitude toward the Manchurian and Shanghai incidents." Professor Herbert von Beckerath, of Bonn University, will lecture on the industrial and economic organization of France; Dr. Luigi Villari, of Rome, on Italy and the world crisis; Professor T. E. Gregory, of the London School of Economics, on the financial outlook in England; and Mr. Arnold Toynbee, of the Royal Institute of International Affairs, on a British view of the world economic order. Professor John H. Williams, of Harvard University, will lead round-table conferences on American economic foreign policy; Mr. Toynbee and Professor Edwin F. Gay, of Harvard University, on "a new economic era;" Professor Gregory, on the present position of the

credit problem; Dr. Stephen P. Duggan, of the Institute of International Relations, on contrasts in Latin American civilization; Professor Bernadotte E. Schmitt, of the University of Chicago, on the peace treaties and the map of Europe; and Professor George H. Blakeslee, of Clark University, on Sino-Japanese relations in eastern Asia.

The Democratic Joint Policy Committee.[1] The employment by the Democrats of a "joint policy committee" during the current session of Congress represents a departure from recent party practice, if not a distinct innovation in party organization and control; and accordingly the functioning of this committee constituted one of the interesting developments during the first months of the session. When the Seventy-second Congress convened on December 7, 1931, the Democrats were actually in control of the House of Representatives, while in the Senate the Republicans still retained a paper majority of one member. The close division[2] between the two major parties, the considerable responsibility of the Democratic party for legislation during this session, and the widespread economic distress in the country caused the Democrats particularly to desire harmony and unity of action. With a view to attaining this end, certain leaders suggested the appointment of a joint policy committee, to be made up of members drawn from both houses. The proposal met with opposition among party leaders in the House of Representatives, especially from Speaker Garner and his supporters. Nevertheless, those favoring such a committee, led by Representative Crisp of Georgia, were finally successful in securing its approval by the caucus. In the Senate, hostility apparently did not manifest itself, and favorable action was taken on the proposal of Senator Harrison of Mississippi that ten Democratic senators be appointed as a committee, which, when acting with a similar committee from the House of Representatives, would constitute the Joint Policy Committee.

Pursuant to instructions of the party conferees in the Senate and House, Senator Robinson and Speaker Garner announced, on December 7, the names of twenty Democrats[3] who were to serve on the committee. The high positions and prominence of these men in the party organization

[1] Information for this note was obtained in part from personal interviews with members of the House of Representatives and of the Senate.

[2] *United States Daily*, December 7, 1931. The membership of the lower house, as then unofficially announced, consisted of 219 Democrats, 214 Republicans, one Farmer-Labor, and one vacancy; in the upper house, 47 Democrats, 48 Republicans, and one Farmer-Labor.

[3] The members of the committee from the House are: Garner, Rainey, Byrns, Cullen, Crisp, Bankhead, Taylor, Drewry, Sandlin, and Greenwood; from the Senate, Robinson, Walsh (Montana), Harrison, Pittman, Walsh (Massachusetts), Glass, Bulkley, Barkley, Wagner, and Hull.

would presumably lend weight to any recommendations that the joint committee might offer. Six of the representatives and five of the senators come from southern states, enabling the South on a joint ballot to outvote members from any other section or sections. Such a division, it was believed, would hardly occur; and if it did, no intimation of its nature would likely be allowed to reach the newspapers.

The Joint Policy Committee functions as a unit. Neither the members from the House nor those from the Senate, acting as a group or individually, are subject to the direction of the committee in their activities in their respective houses. The committee meets on call of Speaker Garner, who presides over its deliberations. No rules of procedure are laid down; discussions are entirely informal; and decisions are reached by agreement. By agreement of the members, only Speaker Garner and Senator Robinson are to give out information concerning the committee's activities and conclusions.

Various statements designed to explain the functions of the committee have appeared in the press. The explanation offered by Speaker Garner is possibly the most lucid[4]: "The only object of the joint committee is to try to coördinate the work of the majority in the House and the minority in the Senate. It is unofficial and advisory only. It is for the purpose of our people in the House and in the Senate to talk over legislative measures and coördinate and harmonize legislative policies, which is good strategy." In suggesting to the caucus of Senate Democrats the appointment of the committee, Senator Harrison urged it as a means whereby the Democrats could present a "united front" to the country. A further comment on its purpose, offered in connection with discussions of tax problems, is found in a statement published in the *New York Times*[5]: "The view was expressed by Democratic members that the Policy Committee would go on record in such a way as to impress upon the country that the party would act conservatively and pave the way to avoid controversy and delay which would further disturb business."

These statements indicate, either explicitly or implicitly, that the committee is designed to harmonize the divergent views of party leaders by providing an opportunity for free interchange of arguments and for the interplay of conciliatory tactics before a measure is brought up for discussion in the halls of Congress. Such a procedure was conceived not only to lessen the probability of unfortunate expressions by party leaders of wide diversity of opinion in the houses, but to expedite legislation through simultaneous consideration in both branches of the primary features of essential measures, and through the effect of the recommendations of the committee on individual party members. Although there is

[4] *United States Daily*, December 30, 1931.
[5] *New York Times*, January 4, 1932.

no avowed way, other than through the press, by which the conclusions of the committee are transmitted to individual Democrats, there is no question that the views held in common by party leaders of so great prominence, regardless of the manner in which they were received, would ordinarily carry strongly persuasive, if not determinate, weight. In short, the Joint Policy Committee, convened quickly and conveniently, constitutes in effect a caucus of party leaders, although it lacks the element of coercion which is associated with the party caucus. The committee meets in secret, discusses problems confronting the party, formulates a policy, and subsequently purports to follow the course agreed upon.

The committee early held two meetings, which were reported in the press.[6] In the first one, on December 15, 1931, such subjects as the moratorium, government expenditures, taxation, and the tariff were discussed. Conclusions were given out in a statement prepared jointly by Speaker Garner and Senator Robinson.[7] Announcement that all problems referred to in the statement were discussed in a most friendly manner has, however, been to a certain extent discounted.[8]

The Committee was called together a second time by Speaker Garner on January 4, 1932, primarily for the purpose of considering the tariff bill which had been drafted during the Christmas holidays. In the course of the meeting, agreement was reached on two bills, one of which sought to revise the administrative features of the Hawley-Smoot tariff act and the other to provide for reciprocal reduction of tariff rates. Conclusions again were embodied in a joint statement released to the press.[9]

From the meager information obtainable, no definite appraisal of the committee's achievements can be made. It would appear, however, that wherever an opinion has been advanced, there has been inclination to question the success and value of its work.[10]

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Exchange of Official Publications Between Germany and the United States.[1] A constantly increasing interest in American universities in the study of the new German government emphasizes the importance of the

[6] *Baltimore Evening Sun*, March 2, 1932.

[7] *United States Daily*, December 16, 1931.

[8] Frank R. Kent, "Tax Difficulties," *Baltimore Sun*, December 18, 1931.

[9] *Baltimore Evening Sun*, January 6, 1932.

[10] *Ibid.*, January 6, 1932; *Baltimore Sun*, January 8, 1932; *Baltimore Evening Sun*, February 29, 1932.

[1] A review of the subject of the international exchange of government publications between the United States and other countries, including the texts of the conventions of 1886 providing for such exchange, is printed in the *Report of the Librarian of Congress* for 1926, pp. 72-84.

agreement between Germany and the United States to regulate in detail the international exchange of official publications between these two countries. Approval of this agreement was noted by James B. Childs, at that time chief of the division of documents in the Library of Congress, in the report of the Librarian of Congress for the fiscal year ending June 30, 1929. The agreement was prepared at Berlin by Mr. Childs and Dr. Adolf Jürgens, of the Reichstauschstelle im Reichsministerium des Innern. The provisions of it were given in the appendix to Mr. Childs' reprint of his report, published under the title *The Collection of Government Publications; A Survey of the Most Important Accessions of the Division of Documents During the Fiscal Year Ending June 30, 1929.* Unfortunately for the research student who desires to know specifically what German materials are being received under this agreement by the Library of Congress, the published report states merely that copies of "the official publications of the following ministries, offices, and institutions" will be furnished regularly by Germany, but omits the list. Upon special application to the division of documents, a typewritten copy of this list was courteously supplied. It is as follows:

1. Reichstag
2. Reichswirtschaftsrat
3. Staatsgerichtshof für das Deutsche Reich
4. Reichskanzlei and following subordinate offices:
   a. Presseabteilung der Reichsregierung
   b. Reichszentrale für Heimatdienst
5. Auswärtiges Amt
6. Reichsministerium des Innern and following subordinate offices:
   a. Reichswahlleiter
   b. Reichsgesundheitsamt
   c. Kommissar der freiwilligen Krankenpflege
   d. Reichsstelle für das Auswanderungswesen
   e. Bundesamt für das Heimatwesen
   f. Chemisch-technische Reichsanstalt
   g. Physikalisch-technische Reichsanstalt
   h. Reichsanstalt für Erdbebenforschung
   i. Reichsarchiv
   j. Reichsamt für Landesaufnahme
   k. Filmoberprüfstelle
   l. Reichskommissar für Überwachung der öffentlichen Ordnung
7. Reichsfinanzministerium and following subordinate offices:
   a. Reichsfinanzhof
   b. Reichsmonopolamt für Branntwein
   c. Reichsfinanzzeugamt
   d. Reichsentschädigungsamt für Kriegsschäden
   e. Reichsausgleichsamt
8. Reichswirtschaftsministerium and following subordinate offices:
   a. Statistisches Reichsamt
   b. Reichsaufsichtsamt für Privatversicherung

c. Reichswirtschaftsgericht und Kartellgericht
d. Reichskohlenkommissar
e. Reichskommisar für das Handwerk
9. Reichsarbeitsministerium and following subordinate offices:
a. Reichsversicherungsamt
b. Reichsversorgungsgericht
c. Reichsanstalt für Arbeitsvermittlung und Arbeitslosenversicherung
d. Reichsversicherungsanstalt für Angestellte
10. Reichsjustizministerium and following subordinate offices:
a. Reichsgericht
b. Reichspatentamt (with the exception of patent descriptions)
11. Reichswehrministerium and following divisions:
a. Heeresleitung
b. Marineleitung (excluding Admiralty maps)
12. Reichspostministerium and following subordinate offices:
a. Oberpostdirektion Berlin, Leipzig, Stuttgart (omitting publications of a local nature)
b. Telegraphentechnisches Reichsamt
c. Reichsdruckerei
13. Reichsverkehrsministerium (including the divisions for waterways, railroads, aircraft, and automobiles) and following subordinate offices:
a. Deutsche Seewarte in Hamburg
b. Reichskommissariat für Seeschiffsvermessung
c. Reichsoberseeamt
14. Reichsministerium für Ernährung und Landwirtschaft and following subordinate offices:
a. Deutsche wissenschaftliche Kommission für Meeresforschung
b. Reichsausschuss für Ernährungsforschung
c. Reichsforstwirtschaftsrat
d. Biologische Reichsanstalt für Land—und Forstwirtschaft
e. Forschungsinstitut für Agrar—und Siedlungswesen
15. Reichsministerium für die besetzten Gebiete
16. Rechnungshof des Deutschen Reiches
17. Deutsche Reichsbahngesellschaft
18. Reichsbank

A mere glance at this list will show the comprehensive nature of the exchange agreement. Furthermore, the agreement provides that the list here printed is "not to be considered as a complete statement but representing only the present status of government organization of Germany; the addition of offices created in the future being reserved for special consideration." This exchange of official publications ought to prove a great boon to American students, for it makes available to them in the Library of Congress a mass of current materials on Germany.

In this connection, attention should be called to the *Monatliches Verzeichnis der reichsdeutschen amtlichen Druckschriften*, prepared by the Deutsche Bücherei of Leipzig and published regularly since January, 1928, by the Reichsministerium des Innern. It includes not only the list

of federal documents, but also those of the states and larger municipalities. An annual index appears in the December issue. A valuable aid to the checking of offices and officers is the *Handbuch für das Deutsche Reich*, issued annually by the Reichsministerium des Innern. In the comparatively near future, when the *List of Serial Publications of Foreign Governments*, edited by Winifred Gregory, is issued in its final form, a comprehensive check list of German serial official publications will be added to the bibliographical tools of the research scholar.

EVERETT S. BROWN.

University of Michigan.

BOOK REVIEWS AND NOTICES

EDITED BY A. C. HANFORD
Harvard University

American Interpretations of Natural Law; A Study in the History of Political Thought. By BENJAMIN FLETCHER WRIGHT, JR. (Cambridge, Mass.: Harvard University Press. 1931. Pp. x, 360.)

This book adequately shows how widespread has been the advocacy of natural-law doctrines in America. The advocates have included New England divines and Tom Paine, Samuel as well as John and John Quincy Adams, Luther Martin and Alexander Hamilton, Jefferson and Marshall; radical leaders in the revolutionary and abolitionist movements; moderate and learned statesmen, such as John Dickinson and James Wilson; members of constitutional conventions, judges on the bench, authors of famous constitutional treatises—Story, Kent, Tucker, and Cooley; systematic political theorists, such as Chipman, Brownlow, and Woolsey. Relatively few publicists have explicitly repudiated the doctrine; most prominent among the adverse critics have been John Taylor, Thomas Cooper, A. P. Upshur, and, more recently, G. W. Hosmer, Burgess, Goodnow, and the Willoughby's. "This much at least is evident," the author remarks, in introducing his "Conclusion"; "the natural law concept has been used in many ways and for many purposes." His historical survey supplies the evidence for that part of his conclusion.

The Americans, like other exponents of the doctrine, have variously held the source of natural law to be in God or nature, state of nature or custom, universal reason or some sense of right and justice divinely or naturally implanted in the mind and conscience of man. And, like others, they have expressed diverse, often conflicting, ideas as to the meaning and proper application of the doctrine. "All men," said James Wilson, "are, by nature, equal and free." "All men are created equal," said the Declaration of Independence. "Nature," said John Adams, decrees "distinctions" among men, a system of "orders" in society, and government by the "well-born." "All men are born equally without freedom and independence," said Professor A. T. Bledsoe. Slavery is "against natural right," "a daring infringement on the law of nature;" or it is ordained by nature for the good of both society generally and the slaves in particular. "Universal suffrage" and majority rule are demanded by natural right, or are violations of it. Nature affirms or denies property as a qualification for voting or holding office. Private property originates in nature, and its preservation is an obligation imposed on government by natural law; or it is an "adventitious" and "conventional" institution, and is to be protected or limited in whatever measure political society finds necessary in safe-

guarding rights that are, by natural law, fundamental and unassailable. Natural law proves individualism, paternalism, or anarchism; sustains vested interests or destroys them; defends or assails existing rules of formal law. The concept has probably served best as a weapon of attack upon some prevailing or threatened policy of government, e.g., England's treatment of her American subjects, slavery, a governmental interference in private business, rather than as a foundation upon which to build a constructive political theory. In any sort of debate on political issues, however, appeal is certain to be made, by one or the other side or by both sides, as Professor Wright's survey amply shows, to some standard of judgment outside the provisions of existing formal law.

To what standards do Americans now appeal? Does natural law still serve them? "It has been forty years," says Professor Wright, "since an American political scientist has defended the use of this concept in the realm of political theory" (p. 319). The only recent defenders, he says, are judges who employ the concept in invalidating formal enactments, writers who approve this judicial use of natural law, and "a number of jurists, several of them leaders of the latest schools of legal thought." It is in the elaboration of these two statements that the reviewer finds the only occasions for challenging Professor Wright's analysis and appraisal. Have the courts gone as far as he suggests in their devotion to natural law? And is there any difference between contemporary political scientists and "leaders of the latest schools of legal thought" in their attitudes toward natural law?

On page 322, the author speaks of "those writers who *believe with courts* that there are certain principles of justice and right which no legislative power, *not even the amending power*, can legitimately transgress" (italics by the reviewer). One or the other of the italicized phrases should have been omitted; or at least the latter should have been considerably qualified. The author's citations do not sustain the sentence as it stands. The court opinions quoted do not deal with "the amending power;" and the writers listed in a foot-note do not "believe with the courts," but rather censure them for not holding the amending power subject to the limitation of inherent natural rights, one of the writers maintaining that "the Bill of Rights is inherently unamendable" by the procedure of Article V, "the Supreme Court to the contrary notwithstanding." This, it is submitted, is not mere quibbling over formal phraseology. If our courts should ever hold, or say that under proper circumstances they would hold, an attempted exercise of the federal amending power invalid because of its transgression of higher principles of natural right, political scientists and jurists would generally agree, I believe, in regarding such a claim of authority as an innovation of some practical significance in our constitu-

tional system. (Judge Clark's opinion in United States v. Sprague is a different matter, and Professor Wright does not refer to it.)

"The objections to natural law," says the author (p. 342), "have been based largely upon ignorance of its actual usage or misinterpretation of its meaning." His own appraisal of the present validity of the concept seems to rest on ideas found in his quotations from the contemporary juristic "defenders" of natural law—namely, Professor Morris Cohen, Dean Pound, and Justice Cardozo. These men speak of the universality and indispensableness of "ethical views as to what is fair and just," of laws as expressions of "reason applied to the relations of man with man and of man with the state," of "standards of justice and fair dealing prevalent among . . . fair and reasonable men." Professor Wright, in turn, suggests that political philosophy still has "need of a concept which is expressive of standards of right and justice other than, perhaps higher than, those set forth in the positive laws." Does any political scientist, even those who offer "objections to natural law," doubt the existence and importance of prevailing "standards of right and justice" applied to the experiences of men in society, outside positive law? Does natural law mean anything else? If so, what is its meaning? If not, who objects to it, and what values are there now in its distinctive terminology?

These dissents and questions are not meant to indicate any serious criticism of the work in hand. Its historical survey is so complete and authentic that a study of that sort will not have to be made again. And no one is more competent than Professor Wright to deal with any question concerning the present theoretical and practical significance of the concept of natural law in America.

FRANCIS W. COKER.

Yale University.

Readings in Early Legal Institutions. EDITED WITH INTRODUCTION BY WILLIAM SEAL CARPENTER AND PAUL TUTT STAFFORD. (New York: F. S. Crofts and Co. 1932. Pp. 357.)

Elementary Principles of Jurisprudence. BY GEORGE W. KEETON. (London: A. and C. Black. 1930. Pp. xii, 324.)

An Introduction to the Science of Law. BY ALBERT KOCOUREK. (Boston: Little, Brown and Co. 1930. Pp. 343.)

These three books deal with some aspects of legal science of interest to the student of government and political science as well as the professional student of law. The compilation of *Readings in Early Legal Institutions* includes several selections of source material (a modern reconstruction of the Twelve Tables of Roman Law, extracts from the Salic law, and an account of the blood feud and the wager of law in Iceland), an account of

the English jury of the fifteenth century, from Fortescue's *De Laudibus Legum Angliæ*, and several historical studies by modern writers on the meaning of justice, religion and early law, Roman civil procedure, the king and early civil justice, the ordeal, and the wager of battle. Each selection is prefaced by a brief introduction showing its relation to the growth of legal institutions. Taken together, they furnish a useful collection of material on the early history of legal institutions among European peoples.

Keeton's *Elementary Principles of Jurisprudence* is a well written analysis of the general principles of law, expressed in clear and simple language, which seems well adapted to the beginner in this field. It is based largely on the classical English writers—Austin, Maine, Holland, and Salmond, supplemented by recent English and American judges and law teachers such as Lord Sankey, Justice McCardie, Professors J. C. Gray and W. N. Hohfield, Justice Holmes, and Dean Pound. Comparisons of Roman law with Anglo-American law are frequent, with occasional references to Chinese, Hindu, and Mohammedan law. The author's experience as a teacher in the Far East and in the University of Manchester has enabled him to appreciate the problems of a wide variety of students.

Professor Kocourek, of Northwestern University, has undertaken a similar perspective of the domain of legal science in briefer compass, and with novel methods of analysis. He finds that the whole body of legal rules may be reduced to two fundamental elements—the claim-duty relation and the power-liability relation. The very novelty of his method, while of interest to the advanced worker in legal ideas, would seem to add to the difficulties of the beginner. At the same time, with one of his four chapters on the subject of state and sovereignty, he gives relatively more attention to the political aspects of legal study.

JOHN A. FAIRLIE.

University of Illinois.

The New British Empire. By WILLIAM YANDELL ELLIOTT. (New York: McGraw-Hill Book Company, Inc. 1932. Pp. xv, 519.)

There have been numerous studies of the British Commonwealth of Nations since the growth of Dominion status rendered obsolete the happy and simple picture of the Mother Country surrounded by her obedient children, the Colonies. The phenomenon of the New Empire, with its freely associated co-equal members, its substitution of voluntary coöperation for political hegemony in international affairs, and its optimistic belief that it can have the cake of unity while deliberately eating it, has naturally attracted considerable attention among students of political institutions. It happens, however, that the accounts that have appeared

hitherto have been written from the rather specialized point of view of the constitutional lawyer or the political scientist. Authors like Berriedale Keith, Noel Baker, and Professor Dewey have concentrated upon the problems of law, or on the historical development of Dominion self-government, and have dealt only indirectly with the religious, social, and economic forces that underlie and motivate the constitutional changes. Professor Elliott's emphasis on these wider aspects and relations, and the completeness of his inquiry, make *The New British Empire* a particularly valuable addition to the literature of its subject.

The book is based upon lectures delivered at the Lowell Institute in the spring of 1931. The reader is assumed at the outset to possess a considerable knowledge of the nature of existing inter-imperial relations; for the author plunges at once into the broad questions that most interest him—as to whether, for instance, the new Empire can achieve "a sort of Counter-Reformation of capitalist imperialism"—and spends little time on detailed exposition of constitutional developments. In dealing with the position of the crown, he is more explanatory, though he employs for the purpose of this most difficult analysis the highly unconventional—and diverting—symbolism of the Lion and the Unicorn of the royal coat of arms. He makes clear the three principal capacities in which the crown must now act: as a single executive controlling the crown colonies and certain aspects even of Dominion government; as the still single representative of Commonwealth members in so far as they agree to act in concert in matters of common interest; and as the mere symbol of union between the Dominions when exercising their normal autonomous powers. He sees in the growth of the latter function a tendency toward a purely personal union of states. Unicorn, the most gentle and kindly of beasts, is winning over Lion in this fight for the crown. This conclusion is one that is finding increasing acceptance today.

It is in dealing with the social and political forces within the Empire, and in setting them against the economic background, that Professor Elliott is most illuminating. No book more clearly unravels the conflicting interests of Boer and black, of Lancashire cotton-spinner and Indian nationalist, of Labor party economics and London's control of Empire credit. The Commonwealth is seen as a vast field for the interplay of centrifugal and centripetal forces. Professor Elliott shows how in every corner where there exist disruptive elements, the British crown has direct relations with some important territory. In Ireland, it is Ulster; in South Africa, the native territories; in India, the native princes. He points out also the very effective form of indirect control which Great Britain exercises in every Dominion except Canada through her control of banking and credit; the advantage to British industries which accrues through the

fact that most loans raised in London for mandates and colonies must be spent for purchases in England; the extent of British influence exerted in those areas within the "Lion's shadow" like Egypt and Iraq. These things belong to the older form of imperialism. But he notes that the growth of Dominion autonomy in fiscal and tariff matters has meant a growth away from the idea of an economic Commonwealth, of whose achievement he is most skeptical.

Without becoming dogmatic, Professor Elliott predicts that the continued existence of the Empire will depend upon the context of world politics as well as upon the extent of the advantages it offers its members. Given peace, and the willingness to permit other Powers reasonable access to its resources, and the Empire may survive as a group of freely coöperating nations.

F. R. Scott.

McGill University.

National Sovereignty and Judicial Autonomy in the British Commonwealth of Nations. By Hector Hughes. (London: P. S. King and Son. 1931. Pp. xv, 184.)

If this little volume at all lived up to its title, it would serve a most useful purpose. A first-class work on the jurisdiction of the Privy Council and the challenge which has arisen to its competence from the growth of Dominion autonomy is still much needed.

This book deals primarily with the disputes which have arisen over cases from the Irish Free State in which special leave to appeal has been granted. Its main thesis is derived almost entirely from the arguments advanced by Irish counsel in Hull v. McKenna (1926) I.R. 402, which, as the author admits in his preface, might profitably have been printed *in extenso* as an appendix. Some attention is given to other leading cases, and the report of the Imperial Conference of 1930 is drawn upon both to support the claims of complete Dominion autonomy and to profess a Commonwealth tribunal, *ad hoc,* for the *inter se* disputes of the members.

In spite of these narrow limitations, the work is distinctly useful, and its main conclusions are sound. The author rightly concludes that the Judicial Committee of the Privy Council is ill constituted to resist consistent pressure from any Dominion that wishes to abolish or to nullify the right of appeal. The competence of the Judicial Committee is grossly inconsistent with the new powers of the Dominions under the Statute of Westminster. Even the federal Dominions tend to rely less upon the appeal to protect provincial or state rights, though admittedly their position differs fundamentally from that of the unitary Dominions.

Mr. Hughes' book suffers primarily from over-simplification of the con-

flicting interests which oppose and support the retention of the appeal. The attitude of the Irish Free State is not fully shared even by the Union of South Africa—though Rex v. Udobe, now pending on an allowed appeal, may bring the two positions closer. The victory of Mr. De Valera may alter matters even more radically than Mr. Hughes thinks necessary.

As an example of the lack of really sufficient and subtle legal analysis, the essential point as to whether the Judicial Committee's decision in Performing Right Society v. Bray U.D.C. (1930), (which he cites from Irish Reports, p. 525), by discharging the order of the Supreme Court of the Irish Free State allowing costs against the appellants, did not in effect overrule the Irish Free State Copyright (Preservation) Act of 1929. For by Section 4 of that act no remedy or relief should be granted by reason of an infringement in the Irish Free State before the passing of the act of a copyright declared by the act or deemed to have subsisted in the Irish Free State by virtue of Section 1 of the act. No indication is made of whether the judgment was implemented in the Free State on this essential point of costs.

WILLIAM Y. ELLIOTT.

Harvard University.

Regionalism in France. By R. K. GOOCH. (New York: The Century Company, 1931. Pp. xii, 129.)

This interesting little volume presents in compressed form the results of an exhaustive survey of the voluminous literature engendered by forty years of agitation for "regionalism" in France.

Starting with the assumption that "somewhere between administrative decentralization and federalism" lies the path to real political liberty and effective local administration for republican France, Professor Gooch lucidly sets in contrast the familiar evils of centralization—the dominance of Paris, the remoteness of popular control, a too rigid legal uniformity, bureaucracy to excess, and the stifling of spontaneous economic forces—with the advantages claimed for regional devolution. Two solid chapters sketch the evolution of the several score of specific proposals for "regionalistic" administrative reform which have successively occupied the French political stage since the 1890's, and enumerate the reasons why, despite widespread advocacy by publicists, political parties, and ministers, none of these plans has yet been translated into legislation. Popular indifference and inertia, along with the stubborn opposition of local "vested interests," offer the explanation.

Instead of regionalism *en bloc,* observes Professor Gooch, there has emerged piecemeal a limited *ad hoc* type of decentralization, not so much territorial as functional, illustrated by the regionalizing of the areas for

administering the military, judicial, educational, and postal services, as well as by the recent development of provincial chambers of commerce as quasi-official advisory agencies in matters of economic regulation. At present, the drive for regionalism in France seems perhaps more "cultural" than political in emphasis—expressing itself through art, literature, and dialect.

As an interpretative essay, Professor Gooch's study is admirable both in substance and in style. It is no longer exact, however, to say that the positions of sub-prefect and general secretary of prefecture "are regularly filled from the immediate political associates of a minister or a prefect." Since 1927, recruitment for the former two posts has been primarily on a competitive level. Nor would the reviewer agree that, with the increasingly direct contact of local representatives of the chief central governmental services with Paris, the prefect is today as necessary or important a personage as he was a generation ago. Finally, one cannot help expressing the hope that Dr. Gooch may have the opportunity to carry his investigations beyond this historical and descriptive survey of "speculative" regionalism to some first-hand case analyses of the complexities involved in re-cutting the French pattern of area and function to fit more closely present-day economic and social realities. To assert that "federalism" of some sort is the way out is not enough. The total problem cannot be dismissed so simply.

WALTER R. SHARP.

Social Science Research Council.

Financial Conditions and Operation of the National Government, 1921-1930. By W. F. WILLOUGHBY. (Washington, D.C.: The Brookings Institution. 1932. Pp. xii, 234.)

The newly elected president of the American Political Science Association has made a noteworthy addition to his books on national administration with this volume on "financial conditions and operation." His ideas about governmental accounting—that expenditures should be classified by funds, organization units, functions, character, and object; that gross expenditures of revenue-producing corporations should not be allowed to swell budget totals, but that only net results of government-owned corporations should be introduced in the national budget, and that receipts should be classified by sources as well as organization units and funds—are clearly outlined in Part IV of his earlier work, *Principles of Public Administration*. H. P. Seidemann and F. A. Oakey have elaborated on the accounting technique implied by these ideas. In the volume under review, statistical studies clothe the skeleton of ideas with the flesh and blood of facts—so far as the figures available permit.

Three of the most noteworthy contributions to our knowledge of national public finance, as a result of this application of accounting principles, will be summarized briefly. First, the gross figures of federal expenses so often quoted in caustic editorials are deflated by exclusion of trust fund, tax refund, subsidiary agency, and District of Columbia figures which do not burden the federal tax-payer. Hence we find that, for the period 1921-30 inclusive, Mr. Willoughby's figures for "total taxes, net" are one hundred fifty to two hundred fifty million dollars smaller than the crude "federal tax collection" figure taken from the Treasury reports of collection by the National Industrial Conference Board. A similar comparison of expenditures cannot be made without subtracting interest and premium on the national debt from Mr. Willoughby's "total governmental costs" to make the figure comparable with the National Industrial Conference Board's "net expenditures." Doing this, we find that from 1927 to 1930 inclusive, Willoughby's figures are from two hundred to four hundred fifty million dollars lower. Second, by working out a "costs of government proper" which has consistently been less than one-half the "total governmental costs" and less than one-third of "total federal expenditures," the author has demonstrated how small a part of the responsibility for expenses is to be borne by the executive and the much criticized "bureaucrats." Pensions, grants-in-aid, interest on public debt, public works, special business enterprises, and other Congressional largess complete the "total governmental costs," while reduction of debt and investments complete the "total federal expenditures." Third, an actual comparison of 1921-30 departmental and bureau costs is another part of the intelligent discrimination which distinguishes this volume from the usual blanket outcry against increasing costs of government. For example, business men who complain about income taxes may stop to ponder an increase in the Department of Commerce budget from thirty-one to fifty-six millions in a period when the Department of Labor budget moved from only seven to eleven millions.

Numerous tables and an interesting discussion of the public debt round out this most useful study of national finances.

G. C. S. BENSON.

Harvard University.

The Government in Labor Disputes. By EDWIN E. WITTE. (New York: McGraw-Hill Book Company. 1932. Pp. xi, 352.)

This volume is the most useful treatment of the relations between trade unions and the law which has yet been published. It is written from the viewpoint of an economist and political scientist who, in his capacity as chief of the legislative reference library of the state of Wisconsin, has

for many years made excellent use of his opportunity to study the law of trade unions. Dr. Witte's book takes up the following subjects: court decisions on various union activities, the legal theories underlying these decisions, statutes affecting labor activities, the procedure and results of injunctions, damage suits, criminal prosecutions of unionists, law enforcement in time of strikes, restrictions upon employers, conciliation and arbitration, and legislative proposals to relieve labor of the onerous restrictions upon its activities. One appendix is devoted to the experience of other countries. Three other appendices are devoted to tables of cases. There is a brief index.

This book has qualities which promise to make it the standard in the field. It is interestingly and clearly written. It has valuable bibliographical notes at the end of each chapter. It is rich with extensive citations to the pertinent cases throughout the text. It is objective in the presentation of data, the statement of the author's liberal position being for the most part reserved until the end of the volume. It takes up various important questions, such as law enforcement, arrests of strikers on petty charges, and labor's use of the injunction against employers—questions which heretofore either have been ignored or have received slight treatment in works on the subject. Finally, it contributes much more complete information than has hitherto been available on many of the problems it discusses. The volume is not without some minor errors, for the most part misstatements of fact; but since their number is very small, they detract but slightly from the high quality of the work.

EDWARD BERMAN.

University of Illinois.

The International Labor Organization: The First Decade. PREFACE BY ALBERT THOMAS. (Boston: World Peace Foundation. 1931. Pp. 382.)

Those who recall the companion volume of self-review published last year by the League of Nations will be struck by the significant differences in this volume, in style and in approach to the analysis of the structure and work of the International Labor Organization, despite the similarity in format and general outline of the two official publications. True, both are written in that "blue-book anonymity" of which Laski has spoken. But the differences of temper and functional concepts in the staff of the International Labor Office are evident from the first paragraph of M. Thomas' preface to the last line of the conclusion. As he states in his introduction, "Surely among all the voices raised in praise, or it may be in criticism, of our work, it is but right that a voice from within the Office should also be heard. It is this voice which finds expression here—a discreet, perhaps somewhat colorless voice, the voice of officials. Yet even if

its tone is uniform and intentionally subdued, it is vibrant with memories, with hopes, with emotion. We can say with joy and pride that in these ten years the conviction and enthusiasm of the staff . . . have never failed or weakened." Here is anonymity, but not neutrality—to ends at any rate.

It is, perhaps, in large measure due to the functions of the International Labor Organization—functions only partially official in character—that this spirit has been engendered and developed. For, like the International Institute of Intellectual Coöperation, much of the most fruitful activity of the Office has been in making and broadening contacts and collaboration with and among all groups of workers, hand and brain, in the member states. And it is in this sphere that some of the most successful work of the Office has been accomplished. "Without this essential factor of support and collaboration, the work of the Organization would indeed be nothing. . . . From its inception, the Organization has tried to create contacts, to become known, understood, and appreciated, to find support, encouragement, a stimulus and a guide in its relations with all the elements of international life."

But it is because the Office has had as its director a man with the initiative, enthusiasm, and administrative skill of M. Thomas that the International Labor Organization has succeeded in developing a positive leadership in the elaboration of international labor standards in the form of treaties. The extent of its accomplishment is traced in detail in this volume; the more significant aspect for the student of international relations is the evidence, implicit rather than explicit, of the effective part played in this development by an international administrative staff, of the growth of a common morale, of the integration of diverse national and individual viewpoints into a truly international civil service. It would, indeed, be hard to find a more valuable "case-study" in international administration—or in the value of leadership.

The absence of index or bibliography is to be regretted in a volume otherwise so useful a reference work on the origin, structure, and working of the International Labor Organization.

PHILLIPS BRADLEY.

Amherst College.

Franco-Italian Relations, 1860-1865. By LYNN M. CASE. (Philadelphia: University of Pennsylvania Press. 1932. Pp. xii, 351.)

War and Diplomacy in the French Republic; An Inquiry Into Political Motivations and the Control of Foreign Policy. By FREDERICK L. SCHUMAN. (New York and London: McGraw-Hill Book Company, Inc. 1931. Pp. xvii, 452.)

At a time when France and Italy seem to hold the destiny of Europe in their hands, any scholarly interpretation of their recent history is a valuable contribution to a better understanding of their present policies. Both of these volumes serve such a purpose, although in very different ways.

The well-documented study by Dr. Case is a monograph dealing with a period of Italian history which appears never before to have been given concentrated attention, even by Italian and French historians. Yet the Roman question was the vital problem in the establishment of the Italian state and the ultimate unification of Italy. A far-seeing statesman like Cavour could never feel that his dream of a great modern Italian state had been realized until Rome had been obtained for its capital. Instead of regarding the wily schemes of Napoleon III as a barrier to his project, Cavour turned them cleverly to his own purpose and made of Napoleon a sympathetic ally.

Dr. Case has examined all of the available French and Italian archive material covering the extensive diplomatic maneuvers of the critical years 1860-65, and has woven a remarkably variegated tapestry of Napoleon's dilemma in trying to protect the Pope and yet support the government of Victor Emmanuel. Not only are the British, Austrian, and Spanish threads woven in, but even the influence of the United States in connection with the Trent Affair is not overlooked. The study ends with the conclusion of the convention of September 15, 1864. It is to be hoped that the author will be able to continue his studies and ultimately carry the story through the Law of Papal Guarantees of 1871 and the Lateran treaties of 1929.

Dr. Schuman's study of diplomatic procedure and policies in the French Republic is on a much larger and more elaborate scale. The sub-title accurately expresses the author's purpose: an inquiry into political motivations and the control of foreign policy. It is a remarkably successful attempt to use the method of the exact scientist in the field of international politics.

The author first devotes himself to a careful investigation of the mechanisms of foreign relations and diplomacy in the Third Republic. He then segregates certain outstanding and politically significant diplomatic incidents in its history for detailed analysis. These eight investigations, covering colonial conquests in Tunis, Indo-China, and Madagascar, the formation of the Dual Alliance and the Triple Entente, the outbreak of the Great War, and the occupation of the Ruhr, give a remarkably complete survey of every phase of French diplomacy. The study ends with a searching investigation into what the author calls the dynamics of foreign policy —the rôle of parliamentary bodies, the press, and public opinion in the formation and execution of foreign policy.

Dr. Schuman's conclusion, that modern diplomacy is the pursuit of

power, is so strongly supported by the facts of the case and so cogently presented that the most skeptical reader finds himself inclined to accept it. But accept it or not, the reader cannot help being impressed by the brilliant and picturesque style and the remarkable clarity of expression in the presentation. Dr. Schuman is to be congratulated for proving that the most complex problems of modern diplomacy can be presented in both scholarly and readable fashion.

GRAHAM H. STUART.

Stanford University.

The French Colonial Venture. By CONSTANT SOUTHWORTH. (London: P. S. King and Son, Ltd. 1931. Pp. xi, 204.)

France ranks second only to Great Britain in the extent of her colonial interests, and second to no nation in her reputation for successful colonial administration. The aim of the present work is "to establish whether or not, on the basis of past experience and of future probabilities, it is to France's interest from an economic point of view to retain and develop the colonies which she now owns."

Although Dr. Southworth is interested primarily in the economic value of colonies, every aspect of the colonial venture is pertinently examined. For example, he explains the notorious unwillingness of the French national to serve in the colonies as due partly to the lack of opportunities for quick and substantial gains, but also to his love for art and music—"he can hear no symphonies in the colonies."

In estimating the net economic value of the French colonies, the author examines the French budgets from 1871 to 1931 to obtain the actual expenditures. He finds that the sum total of colonial charges borne by the French government increased from one hundred and twenty-seven million francs in 1871 to two and one-half billion francs (pre-war value) in 1931. Of these expenditures, the military cost, which is almost entirely borne by the French government, amounts to more than one-third of the total receipts of all the colonial local budgets combined. Furthermore, he estimates that the future burden of the colonies on the French budget will increase rather than diminish.

As to profits from colonial imports, it is the author's conclusion, based upon a very elaborate system of appraisal, that "owning colonies does not enable France to obtain commodities cheaper or on more satisfactory terms." As to exports, the gain is estimated at two and one-half per cent of all the exports of France to the colonies. Capital investment in the colonies has produced losses, rather than profits—estimated at three-quarters of a billion francs annually from 1915 to 1926. The author's conclusion is that the French colonies from an economic point of view

"have been an unprofitable venture for France," and that they "will probably remain so for many years to come."

The study carries conviction because of its impartial attitude and the vast amount of painstaking labor shown by the many complex statistical tables included. Governments interested in troublesome colonial adventures in the Philippines, India, and Manchuria might profitably note its findings.

GRAHAM H. STUART

Stanford University.

Society at War. By CAROLINE E. PLAYNE. (Boston: Houghton Mifflin Company. 1931. Pp. 380.)

Through a multitude of books, plays, and films, we have been well instructed in recent years in the horrors and miseries of modern warfare as seen by the soldier in or near the front-line trenches, and the high policies of war have been exposed in a host of memoirs and diplomatic histories. To this literature, Miss Caroline E. Playne, already known for other works on the period preceding the war, has now contributed a volume of extraordinary interest analyzing the development and character of the various public opinions in England which made up the home background of the war in the years from 1914 to 1916.

The problem that Miss Playne has set herself is to discover and set forth "the psychology of social life, the state of men's minds under the influence of the stress and excitement of war," and she has gone about it through the collection of a mass of material of all varieties: private letters, speeches, sermons, diaries, periodicals, novels, plays, etc. This raw material she then utilizes to illustrate the state of mind of the various elements which she finds in society.

Her own point of view is quite unambiguously expressed throughout. It is the "amazing doings of a mad world" that she is chronicling, and she can find little sympathy with the fanaticism and blindness that she records; but nowhere does she allow this personal attitude to obscure the material that she is presenting. If her running commentary of biting criticism is constantly present, it in no way prevents her from presenting at full length the mental processes and their products that she has set out to study.

It is the kind of book from which a reviewer is tempted to quote an almost endless variety of choice morsels, such, for instance, as the proposal that Miss Playne records for the destruction of a statue of Thomas Carlyle in London because of his known German leanings; but any selection would be invidious. A point of particular interest is her development in the concluding chapters of the idea that at least by the end of 1916 peace

could and should have been made, and that it would have been welcomed by the actual combatants on both sides, but that the inevitable temper of the home populations made such a peace, framed on the basis of a reasonable settlement of world affairs, impossible. The attainment of no limited objectives could satisfy the war madness of peoples who had come to believe that the forces of light were arrayed against the forces of darkness. A reasoned peace could find but few adherents among peoples from whom reason had departed.

As a record of states of mind, there can be no doubt that the book is both successful and amply justified, but there may be doubt as to how much more one actually knows or how much better prepared one is to deal with the world after the reading than before. One reads it with more than a touch of the same somewhat horrified fascination with which one reads the cases presented in a text on abnormal psychology. But the conclusions that can be drawn from it are perhaps no more—and no less—than that if this madness and poisoning of minds be a necessary concomitant of war, then war itself stands doubly damned.

RUPERT EMERSON.

Harvard University.

Crowded Years; The Reminiscences of William G. McAdoo. (Boston: Houghton Mifflin Company. 1931. Pp. xii, 542.)

The parts of this book which should be of interest to students of politics are the chapters dealing with the maneuvers which resulted in the nomination of Woodrow Wilson for president in 1912, the chapters describing the perilous legislative careers of the Federal Reserve Act and the United States Shipping Board Act, the sections discussing the administration of the Treasury Department, the federal reserve system, and the federal railroad administration in time of war, and the estimate and appraisal of the character of Wilson. Mr. McAdoo reveals himself as well qualified by training and temperament for the many tasks imposed upon him during the strenuous years, 1912-18. A lawyer by profession, he achieved his greatest success before his entrance into politics as the organizer of the company which built the Hudson tunnels. In business and politics, McAdoo showed himself to be a master promoter, a super-salesman. As he puts it, he sold the idea of the Hudson tunnels to men like J. P. Morgan and E. H. Gary, and he won the public by his slogan, "The public be pleased." In politics, he was active in selling Wilson's personality to delegates and voters, in selling the federal reserve system to cabinet colleagues, congressmen, and the general public, and in selling liberty bonds to bankers and investors.

Like most autobiographies, this one contains much material that answers

criticisms, and it omits materials that might mar the picture. One can understand why the author stopped his narrative with the year 1918, as subsequent events have added little to his reputation. In his discussion of William McCombs, his banking reform proposal, the labor policy and the deficit of the Railroad Administration, war profiteers, Shipping Board policies, war loans, and other topics, he is clearly on the defensive. He fails to recognize that Charles F. Murphy and Roger Sullivan represented the same brand of politics.

The book reads as though Mr. McAdoo had dictated it rapidly to a stenographer. However, it has been polished, with the aid of W. E. Woodward. The style is vivid, breezy, and natural; there are many entertaining stories. There are some reflections on the ways of politics and business; but one would hardly expect a system of political theory from such a man of action.

HAROLD F. GOSNELL.

University of Chicago.

Franklin Pierce: Young Hickory of the Granite Hills. By ROY FRANKLIN NICHOLS. (Philadelphia: University of Pennsylvania Press. 1931. Pp. xvii, 615.)

Another gap in American political biography has been filled, and well filled, by this painstaking and thorough work. Hawthorne, one of the few friends who stuck to Pierce from beginning to end, wrote, reluctantly, a "life" while his subject was running for president; but this and other contemporary sketches were little more than campaign documents; and this is the first real biography. It is so complete, so scholarly, so fair, and in the main so discriminating, that it is likely to be the last.

The case of Franklin Pierce is the only one in American history in which a party repudiated its president, in the sense of denying him a renomination, and yet went on to win the election. How and why this happened is made very plain in the excellent chapters on Pierce's administration. To a great extent, Pierce, a "well-meaning man" if ever there was one, was a victim of political intrigue and political incompetence, which were never more prevalent than at Washington in the fifties. Pierce appointed an excellent cabinet, at least from the departmental standpoint. They all remained steadfastly with him during his administration, and he and they labored continuously, and with very considerable success, to set new and higher standards of administrative efficiency. But in his judgment of men, and in the major political problems, Pierce appears a rather pathetic figure. The current of great events was too strong for him, as indeed it was for everybody else; and one cannot help wondering what would have happened to the reputation of a Webster, or even a

Lincoln, if either of them had chanced to come to the presidential chair in 1853.

Nowhere has the story of the Kansas-Nebraska Bill, its causes and its dire results, been so well told. The earlier chapters contain a great deal of valuable material about New Hampshire politics; but they are overburdened with inconsequential details, a fault affecting the whole work to some extent. The scheme whereby the book is divided into seventy-six very short chapters is not a happy one. Not every reader will agree with all the author's character deductions. But these are minor blemishes. Now if Professor Nichols will capitalize his New Hampshire experience by writing the life of John P. Hale, that picturesque and rugged figure who appears all too infrequently between these covers, we shall be doubly in his debt.

JAMES P. RICHARDSON.

Dartmouth College.

BRIEFER NOTICES

AMERICAN GOVERNMENT

Progress of the Law in the United States Supreme Court: 1930-1931, by Gregory Hankin and Charlotte A. Hankin (Macmillan, pp. 525), differs from its two predecessors only in a few incidental regards, for the authors have followed essentially the same plan and method as before in the presentation of their material. There is an opening chapter entitled "Liberalism and Conservatism in the Supreme Court." This seems to have been inspired by a desire to determine whether the charges of conservatism made against Mr. Hughes, to whom the book is dedicated, at the time of his appointment to the chief justiceship were justified. This task calls for the selection of criteria by which the "liberality" of a Supreme Court justice may be measured. The criteria used by the authors are the following: "(1) how often does he dissent; (2) does he agree with men like Holmes, Brandeis, and Stone, or with the others; (3) how does he line up in controversies between the 'privileged' and the 'underdog,' between public utilities and the people, etc.; (4) what are his ideas on the social and economic problems discussed above?" There follows a series of computations comparing Mr. Hughes' previous record on the Court with his recent one, and also giving the "batting average" with respect to "liberality" of various justices now sitting. Thus we learn that in 1930-31 "Justice Hughes was liberal in 75 per cent of the cases, Justice Holmes in 88 per cent, Justice VanDevanter in 35 per cent, and Justice McReynolds in 6 per cent." Those who believe that there are objective tests of liberality which have value will doubtless be interested in these scores. The volume presents the work of the Court during the 1930 term in four-

teen appropriately labelled chapters. The most valuable single feature of the book is the information which it gives as to the history and disposition of the cases in which the Supreme Court denies applications for *certiorari*, and therefore writes no opinions. The authors renew their argument that some opinions ought to be filed in such cases. The exposition of the cases is lucid and straightforward, but goes little beyond mere exposition. There is no serious attempt at critical comment. In spite of the great length of the volume, some points are slighted. There is no adequate analysis of Mr. Justice Roberts' opinion in the Sprague case involving the validity of the Eighteenth Amendment; nor is the unique character of the Minnesota "gag press law" case in the development of due process of law made wholly clear. In the discussion of Stromberg v. California, invalidating the California red flag law, the authors are guilty of referring loosely to "the equal privileges and immunities clause of the 14th Amendment." Like its predecessors in the series, this volume seems needlessly long for the purpose which it serves.—ROBERT E. CUSHMAN.

Most recent studies of Porto Rico have analyzed its social problems and criticized the American administration of its affairs. *Porto Rico; A Caribbean Isle*, by R. J. and E. K. Van Deusen (Henry Holt and Company, pp. 342), reviews its history and sets out the character of the local culture. The authors have the advantage of writing from the background of extended residence in the island, and with keen appreciation of the local civilization. The opening chapters cover pre-Columbian Porto Rico and the four centuries of Spanish rule, ground unfamiliar to most American readers. They are followed by the story of American control, based largely on the information in official reports, but with other material which brings out the remarkable progress made in many lines in the last generation and the new problems which progress itself has created or brought to attention. In the foreground, now more than ever before, lies the problem of over-population, rendered more serious by the very success of the public health activities which have cut down the death rate. Even the diversification of industries which is advocated to relieve the truly tragic overcrowding may be only a palliative. The most valuable portion of the book is the last half describing the social activities of the people, their religious and cultural life, the educational activities in town and country, and the characteristics of the country itself. Here the authors have been able to add from their experiences a body of information valuable for a true understanding of Porto Rico. Material of this sort has been conspicuous by its absence in the statistical and polemic discussions upon which the American public has heretofore had to rely in too great degree in the study of Porto Rico.—C. L. JONES.

In *Fifty Years of Party Warfare* (The Bobbs-Merrill Co., pp. 506), William O. Lynch undertakes "to narrate the history of American parties, simply and without bias," for the period 1789-1837. He has accomplished this aim. The same general period has been treated by other writers with decided views of their own and with a wealth of elaboration. Mr. Lynch relies chiefly upon the events themselves or the comments of contemporaries to sustain interest in the narration. The sequence of events is not made to lead to any broad conclusions, to expound any principles of government, or to show the development of any institutions. Taken in themselves, the personal animosities and political intrigues of a hundred years ago seem singularly futile. Their treatment in this volume lacks the direction and emphasis needed to indicate their significance in the development of party government. There seems little point in re-telling the happenings of this period unless a new focal point is introduced or an illuminating viewpoint exposed. This, however, is by way of expressing regret that the author did not undertake a more interpretative study with a broader purpose. It is a criticism of aim, not accomplishment. Within the limits set for himself, Mr. Lynch has done an excellent piece of work.—E. P. HERRING.

In *Robert Barnwell Rhett, Father of Secession* (The Century Co., pp. 264), Laura A. White doubts whether one can understand the causes which led the people of South Carolina to withdraw from the Union in 1860 without a study of "the remarkable activities of one man whose eloquent and fiery preaching of the gospel of liberty and self government, and of revolution to achieve these ends, beat upon their ears in season and out of season for over thirty years" (p. 10). During his tempestuous political career, including fourteen years in Congress, Rhett (1800-76) contributed freely to prevailing Southern opinion upon the subjects of "*laissez faire*, consolidation, the despotism of numbers, [and] sectional minorities" (p. 242). Drawn chiefly from the files of the Charleston *Mercury*, Rhett's organ during most of his life, the biography, though tedious, is straightforward, objective, and authentic.—J. T. CARPENTER.

John C. Fremont and the Republican Party (pp. viii, 146), by Ruhl Jacob Bartlett, has appeared in the Graduate School Series of the Ohio State University Studies. The work aspires to be neither a biography nor an interpretation of the underlying economic and social forces of the time. Yet the career of Fremont is so closely bound up with the party politics of 1854-64 that clarity and unity are gained by describing the man and his party together. Mr. Bartlett has written an interesting monograph that makes for a better understanding of the forces in conflict within the Republican party during these crucial years.

John L. Heaton, former associate editor of the *World*, has written a little book that is of interest simply as a bit of propaganda for the presidential campaign. It is entitled *Tough Luck—Hoover Again!*, and is published by the Vanguard Press (pp. 94). Despite the flippancy suggested in the title, the author undertakes to show seriously the probabilities of President Hoover's reëlection, to review the qualifications of the Democratic aspirants, and also to review the issues of the day. The author concludes that the "danger" of Hoover's reëlection is so great that the liberals of the country would better turn their attention to planning for 1936.

The American Year Book for 1931, edited by A. B. Hart and W. S. Schuyler and published by the American Year Book Corporation, is now available. This volume of 937 pages is "intended to be a condensed record, not simply of facts and occurrences and discoveries, but of the advance made annually in physical, intellectual, and scientific organization." The first three hundred pages, given over to a resumé of developments in national, international, and local politics, are of particular usefulness to the student of government.

STATE AND LOCAL GOVERNMENT

Students of state government should welcome with enthusiasm *A Study in the State Government of Louisiana; With Special Reference to the Legislative, Executive and Administrative, and Judiciary Departments, and the Taxation System*, by Melvin Evans (Louisiana State University Press, pp. 278), and hope that it will be followed by similar studies for other states. As a background for an understanding of the present governmental system, the author devotes almost one-third of the volume to an exposition of the constitutional history of the state. Since Louisiana has had as many as ten constitutions, this portion of the work is of peculiar interest. The part on the legislature includes chapters on composition and organization, powers and limitations, procedure, introduction of bills and committee action, third reading and final passage, and extra-legal forces. Part III contains chapters on the executive, other state officials, and boards and commissions. Part IV is devoted to judicial administration, including among the six chapters one on quasi-judicial procedure. It is of interest to learn that although the basis of the legal system in Louisiana is the Code Napoleon, the organization of the courts is similar to that in the other states with the exception that under the constitution of 1921 there is slightly greater unification than in the average state, and the attorney-general has somewhat larger authority over local prosecutors. Part V on taxation treats of tax limitations, the machinery of taxation, rates, and methods of assessment. The concluding part of the study contains the

author's recommendations for improvement, the most important of which include a unicameral legislature, a short ballot, and the reorganization and integration of the administration with the governor as the central figure. Mere mention of the above topics indicates the nature of the illustrative material that is to be found in Mr. Evans' study.

The Missouri County Court; A Study of the Organization and Functions of the County Board of Supervisors in Missouri, by William Leonard Bradshaw (The University of Missouri Studies, Vol. 6, no. 2, pp. 210), includes a discussion of such topics as the legal status of the county in Missouri, the personnel of the county court or board of supervisors, the position and duties of the county clerk, the judicial functions of the county court, the coördinating and supervisory functions of the court, and the duties of the court in regard to taxation and finance, roads and bridges, charities, and health. The author is of the opinion that "the present county court of three members is about the proper size for the chief administrative and policy-forming body of the county," and thus places himself on the side of that group of experts in the field of local government who advocate a small county board. He is also of the opinion that some of the counties are too small to perform adequately certain of their duties. The solution here is the consolidation of adjoining counties, or at least coöperation as practiced at present by a few counties in regard to the maintenance of almshouses and hospitals and in employing agricultural agents. "Another remedy is for the state to assume more and more control over certain local functions, reducing the powers of local self-government and making the county more of an area for the administration of state laws. State supervision of tax assessments, as well as health and welfare problems, and the building of highways and farm-to-market roads, are evidences of such a tendency." The author also favors the adoption of the short ballot principle and a greater "centralization of authority and responsibility in administrative matters in the county court. Either directly or through a county manager, the court should exercise effective rather than nominal supervision over the other administrative officers." The study makes a real contribution to a better understanding of county government as it operates in a particular state.

City Manager Yearbook, 1932 (pp. 270) is a sign of the increasing value and vitality of its publishers, the International City Managers' Association. Thoughtful discussion of the most pressing current problems of cities—unemployment relief and decreasing expenses—is carried on by men chiefly concerned with the practical expediency of their programs, but yet alive to many of the social implications. C. E. Dykstra and Louis

Brownlow lead the school of thought which questions the wisdom of the Hoover policy of leaving the burden of unemployment relief on overloaded city taxpayers. Numerous conferences on administrative technique show that managers have been gaining an interest in the "science of management" since the publication of Leonard White's book. However, another discussion on "Training for Management" leaves the impression that the tendency toward local appointments is an almost insuperable stumbling block to the bringing up of able young men in this most important profession.

In spite of its purple binding, somewhat sensational chapter titles, and rather generous use of superlatives, Louis H. Pink's *Gaynor; The Tammany Mayor Who Swallowed the Tiger* (International Press, pp. 256) should be of considerable interest to serious students of municipal government and political leadership. After a brief survey of the early life of his subject, Mr. Pink plunges into an objective, fairly detailed, and quite illuminating account of Gaynor's years in the legal profession, his career on the New York bench, and his administration as mayor of New York City. Gaynor emerges as a lawyer with anti-machine views who was closely associated with a boss for many years, a judge with scant patience for lawyers and policemen but much compassion for unfortunate women and violators of blue laws, and a mayor who surrounded himself with unusually able aides and gave little comfort to Tammany, but who at times wholeheartedly supported weak and even crooked subordinates and waged bitter war against leading reformers. A more complex combination of ability, picturesqueness, courage, irritability, and inconsistency it would be difficult to find. Numerous excerpts from Gaynor's speeches, opinions, and letters add much to the interest and value of the study.—HAROLD ZINK.

Purchasing for Small Cities (Municipal Administration Service, pp. 18), by Russell Forbes, is a helpful common-sense analysis of purchasing organization and procedure for cities of less than 25,000. Methods and forms of requisitioning, standardization with federal aid, bidding, awarding contracts, inspecting deliveries, and storing are discussed in a way which should interest many public spirited officials and citizens.

Samuel Seabury; A Challenge (Century Company, pp. 389) is a timely biography by Walter Chambers. Over half of the book is given to Judge Seabury's investigation into conditions in New York municipal politics. The author is an experienced newspaper writer, and he handles the testimony skillfully. The biography is sympathetic in its tone, but straightforward and not sensational—a good account of an arresting figure.

FOREIGN AND COMPARATIVE GOVERNMENT

A clear and useful survey entitled *The Rise of Nationalism in the Balkans, 1800-1930* (Henry Holt and Company, pp. xi, 137), has been contributed to the Berkshire Studies in European History by Professor Wesley M. Gewehr. The task of unravelling the tangled threads of Balkan history in so brief a space is an almost impossible one, but the results in the present volume quite justify the labors in condensation and emphasis that must have been involved. Furthermore, it is a task that must have been undertaken with the realization that every critical reader would scornfully point out that this item might well have been omitted and that one developed at length. The present reviewer, therefore, hesitantly suggests that the World War justifies the expenditure of more than a couple of pages, the minorities' treaties and the Little Entente more than half a page each; but these are matters of personal opinion in no way affecting the general value of the book. Its usefulness has been heightened by the addition of a well-ordered chronological chart and a brief critical bibliography. The further addition of at least one general map would have helped to make the necessarily complicated narrative more easy to follow.

William Spence Robertson's comprehensive *History of the Latin-American Nations,* which is now issued in a revised and enlarged edition (D. Appleton and Company, pp. 821), has been a standard reference work for the past decade. To the widening circle of students of Latin America, the new edition will be of even greater service than was its predecessor. Preliminary chapters discuss the land and its inhabitants. They are followed by a description of the European background in Spain and Portugal, and an account of the period of discovery in which Spain and Portugal—especially Spain—overran so large a portion of the New World. The greater part of the discussion takes up in order the various nations, tracing their social, political, and economic development down to the present day. Constitutional changes and international relations are given prominence, though little attempt is made to interpret the movements traced. Each chapter is followed by an excellent bibliography, and a number of excellent maps are included. An appendix gives tables showing the direction of Latin American trade at various periods. Unfortunately, in all but the recent period these refer only to trade with the United States, and with few exceptions do not extend beyond 1923.—C. L. Jones.

England Muddles Through (pp. 265), by Harold Scarborough, and *Who are These French?* (pp. 302), by Friedrich Sieburg, are two recent efforts by foreign observers to compress within the covers of a book their personal estimates of the culture and politics of a nation. In the first case,

an American journalist gives his impression of the contemporary British scene, and in the other instance the former Paris correspondent of the *Frankfurter Zeitung* attempts an evaluation of the French. Both books are published by the Macmillan Company. A wide variety of topics is touched upon, ranging over cabinets, cookery, national characteristics, economic conditions, and other subjects. The Englishman, according to Mr. Scarborough, "has a keen sense of his position as a political and economic unit in a closely knit society; but as soon as he feels that his duty to the state has been discharged he reverts to an extreme individualism." This conception more or less represents the approach of the author. Herr Sieburg finds much to admire in the refusal of the French to surrender their individualism to a mechanized civilization. Both accounts are pleasantly written and provide some interesting variations on an old theme.—E. P. HERRING.

New Minds, New Men? The Emergence of the Soviet Citizen (Macmillan Company, pp. xvi, 528), by Thomas Woody, commands interest as an interpretation of Soviet Russia in terms of mental conflict. Professor Woody phrases the fundamental purpose of the revolution as an interrogatory title, devotes over 500 pages to the transforming process as an answer, and concludes, with a note of pedagogical caution, that the student cannot be "certain of the outcome in this stupendous process of fashioning a new mind." His method of presenting the vast scheme is very effective. He first portrays the "old mind" as a product of primitive paganism, Christianity, feudalism, westernism begun by Peter the Great, orthodoxy, autocracy, and nationalism, and then describes in succession the multiple Soviet instruments devised to bring about the desired cultural transformation—new type schools, student self-government, science, physical culture, youth organizations, etc.—all directed toward the creation of the collective mind. He who is militant, activistic, classless, secular (atheistic), healthy, sexless (denying male superiority), political, collectivistic, nonnationalistic, and positively international may be called the "new man" with a "new mind," provided he likewise upholds the dictatorship of the Communist party and believes in the slogan: "He who does not work shall not eat." These twelve dominant mental traits, says Professor Woody, reflect the gigantic conflict between individualism and collectivism; but the reader must draw his own conclusions as to the ultimate victory. The book is mechanically complete with helpful diagrams, illustrations, an excellent bibliography, and an index. The author trims his pages with frequent quotations from German and Russian classics. His style has a poetic charm and a general philosophical tone which makes for pleasing as well as instructive reading.—B. C. HOPPER.

Imperial Russia, 1801-1917, by Michael Karpovich (Holt and Company, pp. viii, 106), is a well-planned objective little book which in less than a hundred pages gives a succinct analysis of the political, economic, and cultural development of Tsarist Russia from the beginning of the nineteenth century to the eve of the Bolshevik revolution. It is admirably adapted for college courses in modern history, where the student may not have the leisure to examine more elaborate English works on the subject, such as those by Pares and Vernadsky. Professor Karpovich's study of the social transformations effected by the emancipation of the peasants and the rise of industrialism, as well as of the revolutionary tendencies of all classes of the population from the workers to the intelligentsia and the landed gentry, emphasizes anew a fact which is too frequently disregarded by Western writers—that the Bolshevik *coup d'état* of 1917 represented not a break with the past, but a natural development of political and economic trends which had their roots in the nineteenth century. Equally interesting to the general reader are Professor Karpovich's brief but illuminating comments on Russian art and literature. Those who have deplored the Soviet emphasis on social rather than artistic criteria may find food for thought in the following passage on the intellectual movements of the second half of the nineteenth century: "The idea of civic duty reigned supreme. Art for art's sake became a dangerous heresy, and all artistic activity had to be subordinated to demands of a utilitarian nature. . . . A novel, a picture, a play, or a poem was hailed or voted down, not on its proper merits, but because it was progressive or reactionary, as the case might be."—VERA MICHELES DEAN.

The thesis of Andrei Popovici in *The Political Status of Bessarabia* (Washington, D.C.: Randall Inc., pp. 288) is that the incorporation of Bessarabia into Rumania is just and fair historically, politically, and ethnologically. The author then takes up the Russian arguments and refutes them seriatim, and the volume concludes with a description of the present cultural and economic conditions of the province in an attempt to prove that the political change has brought beneficial results to Bessarabia. It is interesting to note that one of the arguments used is our handling of the Texas situation at the time of annexation to the United States. Although the author, a member of the Rumanian diplomatic service, might be expected to take the Rumanian view of the Bessarabian question, he presents his arguments objectively and on the basis of extensive material. Dr. James Brown Scott has contributed an introduction.—JOSEPH S. ROUCEK.

Modern Greece, by John Mavrogordato (The Macmillan Company, pp. viii, 251), is an historical outline, without any specific merit, covering the

period from 1800 to 1931. It is a simple description of political events, with occasional remarks on Greek culture. The work has some value as a supplement to the similar work of W. Miller, published in 1928, though the political scientist will find more important information in Miller's treatment. The concluding chapter, "A Tract on Federation," is rather unrealistic and over-enthusiastic. We find such statements as that "there should ultimately be a federal government" (p. 225), and "a supreme court of justice will almost certainly be required, as in America" (p. 226). Anyone knowing the psychological attitudes of Balkan peoples will appraise this as sheer idealism.—JOSEPH S. ROUCEK.

Morgen wieder Krieg, by Ludwig Bauer (Berlin: Ernst Rowohlt Verlag, pp. 203), while written by a journalist—the political writer of the *Nationalzeitung,* Basel, Switzerland—is a timely analysis of the present trends of European politics. The author discusses the rival nationalisms of France and Germany, the menace of Hitlerism, the League of Nations, war debts, and disarmament, and prognosticates the probability of another world war unless a solution be sought for the many ills of Europe, among which he considers aggressive nationalism, combined with militarism and protectionism, as the outstanding threats to economic recovery and political stability and world peace. To the student of European politics, this brief analysis will be of inestimable value.—JOHN R. MEZ.

Among recent studies on Soviet Russia, Mr. Zelitch's *Soviet Administration of Criminal Law* (University of Pennsylvania Press, pp. 418), is a timely and welcome contribution. With commendable impartiality and adequate detail, the historical development of the Soviet judicial system, the organization of the criminal courts, criminal procedure, and the personnel of the Soviet judiciary are analyzed. The language is clear and convincing, and the frequent references to official sources make the work authoritative. Six diagrams illustrating the Soviet legal system, together with a list of abbreviations and short titles used in the footnotes and a carefully compiled index, are of assistance. It is to be regretted that the author omitted to mention even the most essential characteristics of the Soviet criminal code. Familiarity with the latter would aid in understanding the wide inconsistency (attempted to be proved in this work) between the Soviet theoretical abstraction, which denies the non-communist sanctity of the judiciary, and the concrete materialization of the Soviet codes on the judiciary, which concedes this sanctity. Emphasis on the economic, social, and political background has made the book a valuable contribution to legal science, and instructive reading to all who are watching Russia's unique social experiment.—T. A. TARACOUZIO.

Lyautey (Appleton, pp. 370), by André Maurois, is, of course, primarily a literary type of biography, but it also contains lessons in government. There is a vivid picture of the problems in colonial administration in Algeria which were met by the renowned general, and an instructive account of the difficulties which beset this able but autocratic administrator when he tried to coöperate with the politicians of the cabinet. Finally, there is a striking example of the ingratitude of a republic when this loyal, hard working, and capable servant received as sole official acknowledgment of his return to his native land after years of service abroad a peremptory demand to pay his taxes!

Reorganization of the Financial Administration of the Dominican Republic (Brookings Institution, pp. 68), by Taylor G. Addison, reminds us that administration follows imperialism. Just as Treasury control and the legislative comptroller of British finance have been carried to the corners of the earth by British officials, so the American gospel of a strong independent comptroller, a budget director, a chief coördinator, and uniform accounting has been carried to San Domingo by General Dawes and his commission. Mr. Addison describes the new system in careful and comprehensive, though dull, detail.

INTERNATIONAL LAW AND RELATIONS

Like the other volumes of the Studies in American Imperialism, J. Fred Rippy's study of the relations of Colombia and the United States, entitled *The Capitalists and Colombia* (Vanguard Press, pp. 256), sets out the activity of economic interests which have sought to exploit natural resources or to influence or control public policy. The first half of the book deals with American capitalistic activities in Colombia, especially in Panama, to the end of the Panama revolution. The resulting story is informative, but hardly edifying. As the author points out, the controlling motives in the period were primarily political rather than economic. They are a part of the larger tale of blustering and blundering action by all the stronger powers in the Caribbean in the years discussed. It was a time when local governments were often parodies of sovereignties, and when those who sought to defend the "rights" of resident foreigners were often not too nice about the claims supported or the means adopted to sustain them. The second half of the volume deals with a period so recent that *ex parte* statements, conjecture, and inference still play an active rôle in any discussion of developments. A chapter on "Clearing the Way for Wall Street and the 'Petroleros'" discusses the Colombian indemnity treaty and the *volte face* made by the die-hards in the Congress of the United States in the post-war period. "The Oil Companies and their Difficulties"

discusses the influence of petroleum interests on Colombian oil legislation and on American policy. "The Dance of the Millions" tells the story of the increase of American investments in private enterprises and public securities in Colombia in a period of easy money. The discussion rests here on ground on which information is least satisfactory, and some of the conclusions fail to be convincing. In sum, the author concludes that American economic activity in the country has strengthened the position of Colombia, though he is not without apprehension that too high a price may have been paid for the money advanced to the public treasuries, and is doubtful whether the extractive industries financed by foreign capital are paying as much as they should toward public expenses. He feels that the pledging of public revenues for the service of loans has gone so far that if defaults and foreclosure occur the Colombian and American governments can hardly avoid serious disputes.—C. L. JONES.

Readings in European International Relations Since 1879, by W. Henry Cooke and Edith P. Stickney (Harper and Brothers, pp. 1060), is an ambitious attempt to collect in one volume material relating to the most crowded period in European history. The value of such collections must ever remain doubtful. For a student who has advanced beyond the textbook stage, first-hand sources are the only proper medium of acquiring a scholarly insight into the subject—all the more so when the sources are readily available in print. No matter how skillful and conscientious an editor may be, it is doubtful whether he can give in such selections a picture which would be both fairly complete and, above all, fairly reliable. In this case, the task was still heavier because the volume deals with incidents so recent that they have not yet been sifted and clarified by historians. In consequence, there are inevitable gaps and deficiencies in every section. If, for instance, one looks into the section dealing with the immediate diplomatic history of the late war, that is, with the Balkan crisis of 1912-13, one will find a number of useful documents and descriptions. But there is nothing from M. Poincaré's *Memoirs*, though they are now indispensable for a proper understanding of those fateful years. In the section containing material on the diplomatic incidents of the early part of the war, there are various items on the negotiations of the Central Powers with Italy, and on the negotiations of the Allied Powers with Italy, Greece, and Rumania; but there is nothing on the equally strategic diplomatic efforts of both sides to gain the support of Bulgaria and Turkey. There are a few insignificent items on the origins of the League, but nothing on the fundamental plans of Lord Bryce, General Smuts, or Herr Erzberger. It is no blame upon the otherwise careful editors of this volume to say that they have been unable to achieve the im-

possible. But one must question whether it is worth while spending valuable labor and money on compilations which, as a short-cut to the "teaching of a college course in European history," are at best inadequate and at worst misleading.—D. MITRANY.

Despite the excellent monographic material that has been published, especially in France, on the subject of the Suez Canal, there has been no competent general account available in English. *The Suez Canal; Its History and Diplomatic Importance,* by Charles W. Hallberg (Columbia University Press, pp. 434), therefore fills an important gap, and should find extensive use. The author surveys the problem from ancient times to the present, and has chapters on the neutralization as well as on the strategic importance of the canal. The published sources and special treatment have been supplemented with documents from the British, French, and Austrian archives. This new material has enabled the author to add some interesting and important points to the story of the canal project from the time of Napoleon to the purchase of the Khedive's shares by Disraeli. The chapters on the ideas and proposals of Metternich are particularly illuminating. On the other hand, the developments of the last fifty years are handled in somewhat perfunctory fashion. The author had no new archive material, apart from a few documents from the Vienna collection. But even with the published source material he might have gone further than he has. The canal question was, for example, to the fore in 1896, when the Russians, becoming interested in the Far East, threatened to bring the question before the Powers. At that time, the question was closely connected with the Egyptian-Abyssinian problem, and was related to the whole complex of rivalries which led to Fashoda. Of all this the author says little or nothing. Taken as a whole, however, Hallberg's monograph is well-done and fairly complete. It is easily the best general treatment of the subject in brief scope.—W. L. LANGER.

In *American Relations with Turkey, 1830-1930; An Economic Interpretation* (University of Pennsylvania Press, pp. xv, 402), Dr. Gordon has put together for the first time the rather scattered and scanty story of American official relations with Turkey during a hundred years, emphasizing, but scarcely more than the facts justify, the economic side. A completer history would give much more space to relations connected with missionary work, which is the next most important phase of American dealings with Turkey. Something might also be added as regards archæological explorations. Dr. Gordon has sought diligently for all available materials, and has consulted American government archives, English and Turkish publications, and manuscripts and books in various libraries in

America, Turkey, and elsewhere. Maps of the Turkish Republic inside the covers show actual and proposed railways, with principal towns and rivers in the new Turkish spelling. Twenty-one statistical tables are inserted in the text. The appendix contains recent treaty negotiations, a list of American diplomatic representatives in Turkey, a chronology, and a short classified index. The subdivisions of the text include an introductory sketch of the whole subject, a discussion of Turkish-American trade as such and in its political bearing, an account of the American effort toward the "open door" in Turkey, and a discussion of immigration from Turkey to the United States, with its effect in both countries and the resulting complications.—A. H. LYBYER.

Professor Riker says: "The making of Roumania is a study of a more or less fortuitous experiment in international polity" (*The Making of Roumania; A Study of an International Problem,* Oxford University Press, pp. x, 592). Relying mainly upon archival evidence, with diligent and patient search for all available material, the author has produced an excellent book of that modern type which abstracts documents carefully and introduces much detail. He weaves a careful web, with close attention to his pattern and careful observation of the different threads. An introductory chapter presents an enthusiastic and interesting description of the Danubian principalities, with a sketch of their history up to the Crimean War. Their political aspirations are defined as being union and a foreign prince. The detailed story begins with the treaty of Paris, and displays the local and international politics relating to these countries for ten years until the visit of Prince Charles of Hohenzollern to the Sultan in the autumn of 1866, at which time the fabric is cut short across with a very narrow fringe of concluding observations. The entire episode presents a process of very great importance to Rumanians. For the rest of the world, it is significantly illustrative of the devious methods and contrary purposes of the diplomatic offices of great European states in the middle of the nineteenth century. The apparatus includes a map, a carefully classified short bibliography, and a remarkably full analyzed index. —A. H. LYBYER.

The rather bulky dissertation by Paul F. Shupp, *The European Powers and the Near Eastern Question, 1806-07* (Columbia University Press, pp. 576), covers only a short period of diplomatic history, from the treaty of Pressburg to the treaty of Tilsit, but it should prove welcome not only to students of Near Eastern history, but to students of the Napoleonic phase of European development in general. These years were exceedingly crowded and confused, and are of particular importance because

they marked the steady formation of a Near Eastern policy in France, Russia, and England, and therefore furnish a guide to the further evolution of the problem of the Ottoman Empire during the nineteenth century. The author has based his monograph not only upon the extensive printed source and secondary material, but upon unpublished papers in the Record Office, the India Office, the Archives Nationales, and the state archives at Vienna. Despite the complexity of the subject, he has succeeded admirably in presenting a clear and well-reasoned account of the interplay of policies and forces.—W. L. LANGER.

The dissertation on *French Opposition to the Mexican Policy of the Second Empire,* by Frank Edward Lally (The Johns Hopkins Press, pp. xii, 163), attempts to disprove the thesis laid down by Dr. C. A. Duniway and others that French domestic policies were partly the reason for the abrupt withdrawal of Napoleon from the ill-fated Mexican expedition. In making his case, the writer gives the most sympathetic and patient attention to the opposition led by Favre, Thiers, and Berryer. However, even here he finds the chief arguments based upon the opposition consistently maintained by the United States against intervention on the part of a European power in American affairs. The McDougall resolution in the Senate, the frank criticism shown in President Johnson's annual messages of 1865 and 1866, and the publication of Secretary Seward's insistent demands for withdrawal in his diplomatic correspondence gave ample ammunition to the anti-imperialists, but their forces were too hopelessly outnumbered. "The Opposition was futile . . . it neither prevented the realization nor contributed to the abandonment of Maximilian's Empire." Dr. Lally finds that the precarious situation in Mexico, the threatening European situation, and increasing hostility of the United States were the sole causes of withdrawal; and of these the American opposition was the most vital. His conclusion is convincing. A fairly extensive bibliography and an adequate index are included.—GRAHAM H. STUART.

F. S. Crofts and Company have published slightly revised editions of two works by Professor J. Fred Rippy, the first editions of which were noticed in earlier issues of this REVIEW (Vol. XX, p. 896, and Vol. XXII, p. 761). In *The United States and Mexico* (pp. xi, 423), no attempt has been made to expand the excessively brief statement of the period prior to 1848, but Chapters XX-XXII, on "President Taft's Mexican Policy," "Wilson's Mexican Policy and its Critics," and "Hughes and Kellogg at the Helm," are adapted from the author's statements in the volume entitled *Mexico,* which he published in collaboration with Vasconcelos and Stevens in 1928. These are followed by a summary of the work of Am-

bassador Morrow and brief concluding remarks. The new edition of *Latin America in World Politics* (pp. 301) omits the concluding chapter of the first edition, and contains a new chapter on "The American International Movement." Some minor errors have been repeated in the new edition, together with one important slip, the statement on page 160 that McKinley sent his message of April 11, 1898, to Congress without mentioning that Spain had directed a suspension of hostilities in Cuba.

Why was an American expedition sent in the summer of 1918 to Vladivostok? During nineteen months as commander of this force, Major-General William S. Graves sought vainly for an answer to this question; and in *America's Siberian Adventure* (Jonathan Cape and Harrison Smith, pp. xxiii, 363), he now makes public the instructions under which he was sent to Siberia and his experiences on Russian soil. Although the War and State Departments were at times in open conflict concerning the line of action to be followed by General Graves, no uncertainty appears in the policies of the other intervening powers. Japan sought territorial expansion, Britain wished to crush Bolshevism and was willing to see Japan secure Trans-Baikalia, the French wanted to constitute a new "Eastern front" against the Central Powers. The net result of the intervention was, in the opinion of the author, a ten-fold increase of pro-Bolshevik sentiment among the people of Siberia.—G. N. Steiger.

The Doctrine of Continuous Voyage, a doctoral dissertation by James W. Gantenbein (Portland, Oregon: The Keystone Press, pp. vi, 207), is a case history, beginning with a Dutch case of 1604 and ending in 1918. British cases are the principal sources, but American, French, German, Italian, and other courts also are drawn upon. The evolution of practice is presented clearly and concisely, and the exposition is enlivened by the author's independent critical comments. In conclusion, Dr. Gantenbein presents a summary of his own views regarding the legitimacy of world war decisions, and three possible alternative plans for future applications of the doctrine. In the belief that neutrality is likely to persist, he suggests that an Anglo-American agreement should be sought which would define the legitimate scope and application of the doctrine and provide a scheme of certification. Such an understanding, he believes, might facilitate a subsequent multipartite agreement.—H. S. Quigley.

International Law Situations, with Solutions and Notes, 1930, prepared by George Grafton Wilson for the Naval War College (Government Printing Office, pp. vii, 176), covers a number of international law problems of particular and practical interest to naval officers. The topics which have

been studied, under Professor Wilson's direction, by the War College class of 1931, fall into three situations: (1) London Naval Treaty (1922) and submarines; (2) absence of local authority; (3) belligerent aircraft. Hypothetical cases are set forth, followed by notes and solutions. It is notable that in the comparatively new field of aviation, maritime precedents are generally followed. A very complete index makes the material easily available for special reference.—A. E. HINDMARSH.

POLITICAL THEORY AND MISCELLANEOUS

The fourth and fifth volumes of the *Encyclopædia of the Social Sciences*, edited by Edwin R. A. Seligman and others, have been published (Macmillan, pp. xxvii, 710; xxiii, 690), carrying the articles down to topics under the letter "F." The present volumes follow the general plan of presentation outlined in the REVIEW for August, 1931 (Vol. XXV, pp. 769-773), and maintain the same high quality. The articles which are of special interest to students in the field of government are too numerous to mention, but among the important ones are: "Commission System of Government," by William B. Munro; "Legislative Committees," by Lindsay Rogers; "Common Law," by Roscoe Pound; "Constitutional Law," by Ernst Freund; "Constitutions," by H. L. McBain; "Due Process of Law," by R. E. Cushman; "Economics," by E. R. A. Seligman, Frank H. Knight, Carl Brinkmann, and others; and the "Executive" by W. J. Shepard. The writer of this note has had a practical demonstration of the usefulness of the *Encyclopædia* in tutorial instruction and honors courses where the correlation of material in the field of history, government, and economics is so important. He has also seen the volumes used with success in courses dealing with comparative government and with the relation between government and industry. If it could be done without interfering with the rôle of the series as a whole, it is believed that the general material in Volume I would be worth reprinting separately, because it presents an interesting history of the social sciences and of their intellectual and constitutional background.

In *The Navy: Defense or Portent?* (pp. 198), published by Harper and Brothers, Dr. Charles A. Beard has brought together in very effective fashion evidence demonstrating the propagandist technique that has been employed in building up naval armament. He poses the general problem as to what criteria the citizen is to adopt in forming an opinion upon so difficult a question as adequate national preparedness, and then proceeds to explain the forces that have influenced the attitude of the public and the legislators. His materials are drawn from official investigations and are well presented. The interconnections of shipbuilders, naval officers, paid

propagandists, and other selfish commercial interests are depicted. Yet the author does not regard the situation as entirely explicable in terms of economic motivation. Personal ambitions and ill-considered ends are likewise to blame. In fact, Dr. Beard, while vigorously denouncing the selfishness that masks as patriotism, insists that the main problem is one of considering what the fundamental object of the navy is. Specifically, what is the navy to defend? Our naval program must be drawn up with this question in mind. Dr. Beard concludes that "international coöperation in the limitation of sea armaments—supplemented by the economic boycott—is the only alternative to a neck-breaking rivalry that may spell disaster to any or all Powers." The matter is not one that can be safely left to the shipbuilders, to the naval experts, or to the propagandists.—E. P. HERRING.

In *The Unseen Assassins* (Harper and Brothers, pp. 349), Norman Angell carries on the campaign of education against war that he inaugurated with the publication of *The Great Illusion* in 1910. The argument of the present work is substantially the same as that of the earlier one, buttressed by the events of 1914-18 and their aftermath. War he sees as "the one great human evil which it is plainly and obviously within the will of man to abolish merely by the exercise of that collective will," which, in fact, man continues blindly, even wantonly, to turn to oppression and destruction. The ends for which men fight, if they be material gain, are unrealizable, and, if they be mastery of other peoples, are incompatible with the close-knit modern world of economic interdependence and coöperation. The facts of the case he holds to be sufficiently clear to anyone with the eyes and the will to see them; but ignorance, lack of imagination, and unreadiness to try new paths bind men to the old ways and the old ideologies despite their obvious inadequacy. In essence, the problem that Norman Angell poses with vigorous clarity is this: Has man the wit and the will to build himself, as he can with the tools at his command, a world of peace and prosperity, or must he go on in helpless bondage to self-created war and poverty and chaos?

Mr. Paul Einzig has recently attracted considerable attention by a number of short monographs on current financial problems. His *International Gold Movements, The Bank for International Settlement, The Fight for Financial Supremacy,* and *The World Economic Crisis, 1929-1931* have all had second editions. His latest study, *Behind the Scenes of International Finance* (Macmillan, pp. 154), is of amazing interest in that it discloses the complete shifting of a certain type of warfare from the political and military field to that of international finance. The main

contention of the book is "that the financial warfare conducted by France in order to acquire political power over Europe has largely contributed to the development of the economic depression since 1929, and has been the direct cause of its accentuation during the second half of 1931 into a crisis without precedent." The story told by Mr. Einzig (p. 138) of how a French representative, on the day before M. Laval's departure for Washington, made it clear to American financiers that "unless President Hoover accepted M. Laval's terms, the French authorities would not hesitate to cause extreme inconvenience to New York by withdrawing their deposits" should give much food for thought. It seems to be true that France has won a great diplomatic victory in limiting Hoover's moratorium to one year. "President Hoover is said to have agreed to make no further move in the matter of war debts and reparations without consulting France in advance. . . . It would be, indeed, unthinkable that a nation such as the United States should yield to French political blackmail, and, for the sake of retaining deposits of some six hundred millions, submit to dictation in a matter of foreign policy of vital importance to the United States and to the rest of the world." These few quotations will suffice to show that Dr. Einzig's study deals with a novel phase of international relations in a worth-while manner.—JOHN R. MEZ.

The New Survey of London Life and Labor, of which the first volume has just been published (P. S. King and Son, pp. 438), promises to be an interesting storehouse of information on the social, economic, and industrial life of London's population. Volume I summarizes the "Forty Years of Change" from 1889 when Charles Booth made his great investigation of London poverty and classification of economic ranks. The main theme is one of progress—if an encouraging tendency in statistics of housing, health, education, parks, transportation, and control of criminals can be called a theme of progress. Thorough analysis of causes must wait for succeeding and more detailed volumes, but the student of governmental efforts at social amelioration can find interesting information in this initial study. For example, much of the decline in infant mortality rates is traced to the Education Act of 1870. Another example is that, private building having almost ceased after the war, governmental agencies have shouldered the task of erecting homes in an effort to modify the evil of overcrowding which still curses much of London's population. Students of minimum wage legislation will be interested to know that a rise of pay in the "sweated industries" since they came under the Trade Boards Act of 1910 has been greater than the rise of real wages in industry as a whole. Finally, one of the most encouraging results of the British program of social legislation is that the economically sub-normal element of the population has decreased.—G. C. S. BENSON.

To most political and economic theorists, "accounts" has a dull connotation of high stools and bent, visored clerk-drudges. Yet, after hearing wage-earners protest against exorbitant profits of employers or reformers cry out against government steals, students of social science must have realized the importance of accounts in finding the facts. To take another example, the maelstrom of reproduction valuation which tossed the Supreme Court into accounting absurdities like the United Electric Railways v. West decision is an unhappy result of ignorance of accounting rules on the part of judicial theorists. In the open market, in regulated industry, or in government operation, we are beginning to realize what Dr. Scott calls the *Social Significance of Accounts* (Henry Holt, pp. 313). Nor is this book content with making accounting control into an "open sesame" to the facts of social problems. It takes the logical next step and offers accounting control as a substitute for the more flexible but less certain control of the competitive market. Though the idea is not stated definitely, it is probable that wages and prices should be calculated on something like the "standard cost" principle of industrial accounting. Since the idea represents a real effort to align economic theory with the situation in many contemporary industries, it is unfortunate that this version should be marred by wearisome repetition of generalizations, lack of organized supporting detail, and ignoring of the implications.—G. C. S. Benson.

Stephen Leacock has written a small book on a topic of current interest entitled *Back to Prosperity* (Macmillan, pp. 108). The reader intent on discovering the road back to prosperity may well profit from a suggestion offered by the author in the final chapter: Those "readers whose rapid intelligence renders it unnecessary for them to read the book" may be satisfied with a summary on pages 106-108. The way out is Empire free trade developed under a quota system and the resumption of gold payments following devaluation. Leacock hails the end of the free trade era. "Free trade is for the consumer, and the consumer is dead. . . . Payments in kind break down the home industry. . . . England is underegged." (England should consume more eggs and the market for Empire agricultural products will be broadened.) Nations must buy as well as sell. "This fatal 'sales-complex' adapted from the noxious salesmanship which disturbs and disfigures the business world has done harm enough already." As an amusing bit of reading and a strong statement of the case for Empire free trade, the book is to be welcomed; but as a practical program, even for the Empire, it is hopelessly inadequate. Problems of overproduction, movements in different price groups, and the broader aspects of monetary policy are quite neglected. Foreign trade is but a small part of all trade.—S. E. Harris.

Part I of *Taxation; Its Incidence and Effects,* by H. A. Silverman (Macmillan, pp. 359), concerns the general principles of taxation. Most of it commands respect and constitutes an important addition to finance literature. In particular, the discussion of taxable capacity is eminently sensible. Part II deals with the incidence and effects of the forms of taxation employed in Great Britain, closing with observations concerning the relationship of local rates to industrial progress and a final chapter on concentration of taxation. Students of public finance will not agree with certain views expressed. G. Cohn's classification of expenditures (*System der Finanzwissenschaft,* § 91) is attributed to Plehn (p. 30). The author's worry about "double taxation" involved in taxing funded income (pp. 77, 166, 185-187) arising from the investment of previously taxed earned income will be discounted, since the unearned income is *new.* Complete elimination of the benefit and cost-of-service principles of justice in taxation will not be accepted. Here Silverman appears to follow the early arguments of Seligman, though Seligman himself, in *Double Taxation and International Fiscal Coöperation* (p. 106), has frankly abandoned his earlier position. Aside from logical considerations, it appears that practical application of these principles renders untenable their disregard. (Cf. the view of the International Chamber of Commerce, *Resolutions Adopted by the Washington Congress,* and the recommendations of the Committee of Experts of the League of Nations, *Double Taxation and Fiscal Evasion.* 1928. II. 49, and the applications of their views in bilateral conventions, *ibid.* 1931. II. A. 29). In spite of these criticisms and possible objections to the author's "single tax" doctrine, the volume constitutes a readable, orthodox restatement of many of the important principles of taxation.—JAMES W. MARTIN.

The Public Pays (Vanguard Press, pp. 273), by Ernest Gruening, and *Power Ethics* (Alfred A. Knopf, pp. 191), by Jack Levin, are intended to put before the public in readable form the results of the Federal Trade Commission investigation of the propaganda activities of the utility companies. Both books are digests or expositions rather than analytical treatments. In each, the general character of the publicity work is described and excerpts and summaries of the hearings are given as to the circulation of publicity through churches, schools, colleges, clubs, public speeches, press, radio, and, as one publicity agent cheerfully confessed, "everything but sky-writing." The range of activities varied from the subsidizing of college professors to the composing of public utility songs, such as "No Excess Profits" to the tune, "Yes, We Have No Bananas," and "Rural Electrification" to the tune, "Reuben, Reuben, I've Been Thinking." These books serve to make widely available disclosures which might other-

wise find relative oblivion in the bulky volumes of government documents. But a critical estimate of utility publicity activities and their significance remains to be made.

Ninety-nine years after the death of Jeremy Bentham, Harcourt, Brace and Company republish Hildreth's translation of Dumont's treatise on legislation, in which Bentham's contributions to jurisprudence were first reduced to systematic form, and by means of which they exerted their greatest influence. The present edition, *The Theory of Legislation by Jeremy Bentham,* edited with an introduction and notes by C. K. Ogden (pp. lii, 555), contains, in addition to the extensive introduction and explanatory notes, a hitherto unpublished essay by Bentham on "Offenses against Taste," in which he dealt, among other matters, with the legal aspects of certain problems of sex. This volume sets forth the substance of Bentham's principles of legislation, the principles of the civil code, and the principles of the criminal code, and hence is of less interest to students of political science than the *Fragment on Government* and the *Constitutional Code.* It will be more useful to lawyers and psychologists, for whom Bentham's ideas on human motivation and law reform will always have a special interest.

Every biographer of Jefferson has dealt at least in passing with that statesman's interest in public education and his importance in the development of the school system of Virginia. None, however, has treated this aspect of his work at all thoroughly. Professor Roy J. Honeywell's *Educational Work of Thomas Jefferson* (Harvard University Press, pp. xvi, 295) is, therefore, a real addition to the growing body of Jeffersoniana. The author has examined virtually everything bearing upon his subject, and he presents his results in a clear and readable form. After discussing Jefferson's education, he deals with his early work in the interest of a scheme of free public schools, with his attempts to reorganize the College of William and Mary, and with his ideas about the establishment of a national university, and then devotes the greater part of the book to Jefferson's long and zealous efforts connected with the founding and early organization of the University of Virginia. To the student of Jefferson's political ideas, Jefferson's recommendations as to suitable treatises on politics will be especially interesting (pp. 121-122). There is a useful bibliography and a series of valuable appendices. Unfortunately, there is no index.—B. F. WRIGHT.

The Fair Rate of Return in Public Utility Regulation, by Nelson L. Smith (Houghton Mifflin, pp. 334), and *Some Phases of Fair Value and*

Interstate Rates, by James B. Smith (Louisiana State University Press, pp. 101), show that judicial pronouncements on valuation of utilities in rate regulation cases are not yet thoroughly clear. One author, favoring reproduction cost as the controlling element in determining fair value, reaches the satisfactory conclusion that the Supreme Court also feels that way. The other author is gratified to note that the decisions are based chiefly on prudent investment. The book first mentioned is useful because it emphasizes the importance of the rate of return, a much neglected topic. The economic reasoning is persuasive if one accepts the somewhat dubious premises that reproduction cost should be the chief measure of fair value and current competitive earnings the measure of the rate of return. The other book analyzes the decisions on railroad valuation cases, and, as indicated above, reaches the conclusion that prudent investment has been the dominating consideration.—H. L. ELLSBREE.

The plight of the street railway presents problems of interest both to economists and to political scientists. *The Street Railway in Massachusetts*, by Edward S. Mason (Harvard University Press, pp. 222), is mainly a study in the economics of transportation, but it throws much light on the subject of utility regulation. While it is evident that such factors as unduly optimistic expansion, rising costs, and motor competition have played a major part in the decline of the street railway industry, there is reason for thinking that the policies of regulatory authorities accelerated this decline. Although the author indicates that state administrative supervision in Massachusetts has generally been wisely exercised, he points out that delays and deadlocks almost inherent in this type of control sometimes prove disastrous. His conclusion is that if the industry is to survive it must be under some form of public ownership or management. The combination of private ownership and public management is believed to possess many advantages over public ownership.

A study of *New York City During the War for Independence; With Special Reference to the Period of British Occupation*, by Oscar Theodore Barck (Columbia University Press, pp. 267), takes its place among those theses for the doctorate of Columbia University which have gradually covered the history of that metropolis and the state from the early years of the eighteenth to the middle of the nineteenth century. It is chiefly concerned with the details of the British occupation, all but the first two introductory chapters being devoted to the years 1776-88. It is detailed, careful, and comprehensive, taking up each phase of life—food, fuel, press, churches, schools, amusements, education, business, health, military and civil activities—in an exhaustive study.—W. C. ABBOTT.

Regulation of Public Utilities, by C. M. Clay (Henry Holt and Company, pp. 309), is concerned mainly with the constitutional aspects of valuation and interstate utilities, including holding companies. No original contribution is made to either of these subjects, but the relevant cases and leading articles are carefully digested. Many generous excerpts are quoted, with acknowledgments. The scissors and paste method has its disadvantages, but the author has made good use of it in covering this highly controversial and complicated field. The book is written frankly for the nontechnical reader and well serves its modest purpose.

The Ethical Problems in Relations of Business to Government (The Ronald Press, pp. 174) consists of a series of lectures delivered in 1931 at the Northwestern University School of Commerce, with an introduction on the general topic by Professor Vanderveer Custis. Julius Klein, of the Department of Commerce, argues that business ethics must be and usually are sound. W. E. Humphrey, of the Federal Trade Commission, makes an ardent defense of the conciliatory tactics pursued by the Commission in recent years. Senator Barkley of Kentucky discusses dispassionately the ethics of the business lobby. John N. Van der Vries and W. J. Donald, of the Chamber of Commerce of the United States and the American Management Association, respectively, present pleas for more self-regulation of business and less government control.

"Here in America there is not time to lose if we want to get, not one hundred per cent correct theory, but action to avert war and disaster." Thus Norman Thomas writes in a recent volume of collected essays entitled *As I See It* and published by Macmillan (pp. 173). There is a somewhat more urgent strain in this latest book as the author proceeds to give his views upon a variety of topics such as disarmament, economic planning, liberty, the church, and New York City politics. The attitude of the author is so clearly reflected in every line of the book that an evaluation of the work becomes rather an estimate of Mr. Norman Thomas. Here the socialist leader's well-known viewpoint is turned to an interesting consideration of current problems.

In *The Origin and History of Politics* (John Wiley and Sons, Inc., pp. xv, 504), William Christie MacLeod draws from anthropological sources to explain the origin and forms of the state and various stages of political development. The effort is made to examine political problems in perspective offered by ethnological research. The author brings together much material not often encountered in political studies. The feudal system in Japan, the empires of the Chinese and the Incas, and the tribal govern-

ment of the American Indians are cited as illustrative materials. Political institutions of many countries and times come forward for brief description, and various theorists are expounded and criticized. The volume covers a vast field in a cursory fashion.

Mr. Philip G. Wright, in *The American Tariff and Oriental Trade* (University of Chicago Press, pp. 177), devotes most of his space to an analysis of the effects of the American tariff upon our trade with Japan. The bulk of China's exports, being raw materials or non-competing goods, enter this country duty free. Many of Japan's products also are on the free list; but silk tissues, pottery, and other manufactured goods are met by a steadily rising tariff barrier. The author believes that a reduction of rates on Japanese manufactures, while having no appreciable effect upon the market for American goods, would be of material benefit to Japan and to world peace.

The engaging *Autobiography of Lincoln Steffens* has been issued complete in one volume (pp. xi, 884) by Harcourt, Brace and Company. Part II, concerning Steffens' early days in New York, and Part III, which describes his investigations into political corruption, contain fascinating anecdotes as well as much first-hand information on the seamy side of politics. The whole book is a fresh and lively personal chronicle of extraordinary charm and value. (See this REVIEW, August, 1931, for review of original edition.)

Future Trading, by G. Wright Hoffman (University of Pennsylvania Press, pp. 482), is a thorough and critical analysis of the economic aspects of dealing in futures as a method of marketing commodities in the United States. One chapter is given to the history and present scope of government regulation of future trading. The author concludes that future markets have a valuable function to perform, but that if they are to perform them successfully, something more is required than memorials to Congress and campaigns to "keep the government out of business."

Agricultural Credit in the United States, by Earl S. Sparks (Thomas Y. Crowell Company, pp. 476), is an exhaustive study of the history of farm credit. Although the approach is descriptive rather than critical, the author reaches the conclusion that there is no scarcity of credit devices and that the hope of the farmer lies in improved management, not in easy money.

RECENT PUBLICATIONS OF POLITICAL INTEREST
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AMERICAN GOVERNMENT AND PUBLIC LAW

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UNITED STATES

Congress.

House of representatives. Foreign affairs committee. General disarmament conference, hearings, 72d Congress, 1st session, on H. J. Res. 163 . . . Washington: Govt. Ptg. Off., 1932. 34 p.

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Senate. Recognition of Russia, article on recognition of Russia, by Edwin D. Dickinson; presented by Mr. Borah. Washington: Govt. Ptg. Off., 1932. 12 p. (Reprinted from *Michigan Law Review*, vol. 30, No. 2, Dec., 1931.)

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This paper contains notes passing between the State Department and the League of Nations, China, and Japan, relative to the Manchurian situation, beginning September 21, 1931.

George Washington, Commission for celebration of 200th anniversary of the birth of.

Handbook of George Washington, appreciation course (for teachers and students) . . . Washington: Govt. Ptg. Off., 1932. 190 p.

Pamphlets 1–16 . . . ed. by Albert Bushnell Hart . . . Washington, Govt. Ptg. Off., 1932. 198 p.

Most of these pamphlets are of purely historical interest. No. 7: Washington and the Constitution, by David M. Matteson. 8: Washington as president, by Albert Bushnell Hart. 16: Classified Washington bibliography, by committee of American Library Association.

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Salaries for routine clerical work in private industry, 1929. Washington: Govt. Ptg. Off., 1931. 189 p.

One of a series of studies made in connection with grading civil service employees of the government.

President.

Message of president of the United States communicated to the two houses of Congress, Feb. 17, 1932 . . . relating to consolidation of departments of the government. Washington: Govt. Ptg. Off., 1932. 5 p.

State Department.

Subject index of the treaty series and the executive agreement series. Washington: Govt. Ptg. Off., 1932. 214 p.

This subject index covers the treaty series and the executive agreement series only. All treaties of the United States which have at any time been in force are covered by the index. Not all executive agreements are covered, but only such as are in one of the two series mentioned. Unperfected treaties, i.e., those that have not been in force, are not covered, and the index does not cover every document printed in Malloy, since there are in that work a few unperfected treaties.

STATE

CALIFORNIA

University of California, Berkeley. England, Russia, and the straits question, 1844–1856, by Vernon John Puryear. Berkeley, 1931. 481 p. (Publications in history, vol. 20.)

GEORGIA

University of Georgia, Athens. A proposed constitution for Georgia. Presented to the round table session of the institute of public affairs . . . by its committee on the constitution . . . Athens, 1932. 51 p. (Bulletin of the University of Georgia, vol. 32, no. 4.)

ILLINOIS

Governor's tax conference. Report of executive committee to the governor's tax conference, adopted . . . October 30, 1931. Chicago, Barnard & Miller, 1931. 46 p.

IOWA

University of Iowa, Iowa City. International relations. An outline for study clubs, by Jacob Van der Zee . . . Club program and bulletin service. Iowa City, 1931. 19 p.

LOUISIANA

University of Louisiana, Baton Rouge. University studies, vol. 1: The community property system of Louisiana, with comparative studies, by Harriet Spiller Daggett . . . Baton Rouge, 1931. 237 p.

Vol. 2: Land problems and policies in the African mandates of the British commonwealth, by Nick P. Mitchell . . . Baton Rouge, 1931. 155 p.

PORT OF NEW YORK AUTHORITY

Port authority statutes. 5th edition. New York, 1931. 37 p.

While this is merely a collection of New York and New Jersey statutes setting up the port authority, it is included because of the peculiar political unit created.

FOREIGN

CHINA

Appeal from the Chinese government. Statement communicated by the Chinese delegation in conformity with Article 15, paragraph 2, of the Covenant of the League of nations. Geneva, Kundig. n.d. 48 p. chart.

China's statement to the world. About seven pages are historical introduction; the rest are devoted to events since September 18, 1931.

GREAT BRITAIN

British documents on the origins of the war, 1898–1914. ed. by G. P. Gooch and Harold Temperley. Vol. 7: the Agadir crisis. London, H. M. S. O., 1932. 917 p. illus.

The excellent index of 70 pages should add to the value of this important document.

GUATEMALA-HONDURAS boundary arbitration

The documents in this arbitration, conducted under the treaty of July 16, 1930, which established a tribunal composed of Charles E. Hughes, United States; Luis Castro Ureña, Costa Rica; and Emilio Bello Codesido, Chile, have reached imposing proportions. They include "brief on behalf of Guatemala"; "the case of Guatemala"; and "annexes to the case of Guatemala," over 1600 pages of text and maps, and "the case of Honduras"; "counter case of Honduras in answer to the case of Guatemala"; and "rejoinder of Honduras to the counter-case of Guatemala," about 950 pages of text and maps—the Honduran documents being printed in both Spanish and English.

ITALY

Senato del regno; Camera dei deputati. Bollettino parlementare. Rome.

This bulletin has just celebrated the completion of its fifth year, and is a good example of the very worth-while work being done by Italy in the field of public documents. Volume 5, no. 3, for December, 1931, contains 710 pages, and is not the conventional parliamentary journal. It contains digests of laws of interest recently passed by all the European countries; it is well and fully indexed. There is a detailed analysis of the activities of the various government departments, as exemplified in proposed legislation. There is a supplementary volume of 301 pages which lists the acquisitions to the libraries of the Senate and Chamber of deputies for the period, July–December, 1931, and also indexes by subject nearly 230 different periodicals from all over the world.

PERU

Reserve bank of Peru. Commission of financial advisers on finances of national government of Peru. Edwin W. Kemmerer, Pres.

In 1931, this commission published ten pamphlet reports having to dowith the results of its labors: report on the taxation policy of Peru; project of an income tax law, together with a report in support thereof; project of law reorganizing the department of comptroller-general of the republic, together with a report in support thereof; project of a general banking law, together with a report in support thereof; project of law authorizing provincial and district councils to impose a real property tax . . . ; Project of an organic budget law . . . ; project of law for the reorganization of the national treasury . . . ; project of a monetary law . . . ; project of law for the creation of the central reserve bank of Peru . . . ; project of an organic customs law . . .

RUSSIA

Die internationalen beziehungen im zeitalter des imperialismus. Dokumente aus den archiven der Zarischen und der provisorischen regierung; herausgegeben von der Kommission beim zentralexekutivkomitte der Sowjetregierung unter dem vorsits von M. N. Pokrowski . . . Reihe I: Das Jahr 1914 bis zumKriegsausbruch: 4 Band: 28 June bis 22 Juli 1914. Berlin, Hobbing, 1932. 355 p.

The first volume of this set was noted in an earlier issue of the REVIEW.